UNITED
NATIONS

CERD

International Convention on
the Elimination
of all Forms of
Racial Discrimination

Distr.
GENERAL

CERD/C/338/Add.12 (Part II)
23 May 2000

Original: ENGLISH

COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

Fifteenth periodic report of States parties due in 1999

Addendum

United Kingdom: Overseas Territories*

[27 March 2000]

* This document contains the fifteenth periodic report of the United Kingdom of Great Britain and Northern Ireland - Part two: Overseas Territories, due on 6 April 1998. For the fourteenth periodic reports of the United Kingdom of Great Britain and Northern Ireland and the summery records of the meetings at which the Committee considered those reports, see documents CERD/C/299/Add.9 (Part II) and CERD/C/SR.1185-1186.

GE.00-42411 (E)

CONTENTS

		Paragraphs	Page
I.	INTRODUCTION	1	3
II.	GENERAL ASPECTS OF UNITED KINGDOM POLICY TOWARDS OVERSEAS TERRITORIES	2	3

Annexes

A	Anguilla	3 - 14	6
B.	Bermuda	15 - 31	10
C.	British Virgin Islands	32 - 53	16
D.	Cayman Islands	54 - 71	24
E.	Falkland Islands	72 - 93	30
F.	Gibraltar	94 - 106	36
G.	Montserrat	107 - 120	40
H.	Pitcairn	121 - 124	44
I.	St. Helena	125 - 142	45
J.	Turks and Caicos Islands	143 - 157	51

I. INTRODUCTION

1. This part of the present report contains, in its several annexes, the United Kingdom's latest (the fifteenth) periodic reports under the International Convention on the Elimination of All Forms of Racial Discrimination in respect of its Overseas Territories (as its dependent territories overseas are now styled). These reports are set out below as follows:

Annex A	Anguilla
Annex B	Bermuda
Annex C	British Virgin Islands
Annex D	Cayman Islands
Annex E	Falkland Islands
Annex F	Gibraltar
Annex G	Montserrat
Annex H	Pitcairn
Annex I	St. Helena
Annex J	Turks and Caicos Islands

II. GENERAL ASPECTS OF UNITED KINGDOM POLICY TOWARDS OVERSEAS TERRITORIES

2. As background to the individual reports which follow, the United Kingdom Government draws the Committee's attention to a significant evolution of its policy towards its Overseas Territories which has particular relevance to human rights in general and to the Convention in particular. This has its origin in a thorough review of the relationship between the United Kingdom and its Overseas Territories that was instituted by the current Administration in the United Kingdom shortly after it took office in May 1997. In consequence of that review, a White Paper was laid before the United Kingdom Parliament in March 1999 by the Secretary of State for Foreign and Commonwealth Affairs, setting out the general approach which would henceforth be followed by the United Kingdom Government in relation to the Overseas Territories and describing in detail the particular policies and measures which the United Kingdom Government was pursuing, or intended to pursue, in accordance with that approach. Copies of that White Paper, which is entitled "Partnership for Progress and Prosperity: Britain and the Overseas Territories", are being transmitted to the Committee's secretariat together with the present report. But the Committee's attention is drawn at this point to the following particular aspects of it.

(a) Self-determination

The relationship between the United Kingdom and its Overseas Territories is now to be based on a new partnership. This partnership is to be promoted, in the United Kingdom itself, by new Departments in the Foreign and Commonwealth Office and in the Department for International Development, the two Ministries of the United Kingdom Government that are principally concerned. These new Departments are vested with the primary responsibility for the affairs of the Overseas Territories and each of them is accountable to a Minister specifically designated for that purpose. The Overseas Territories, for their part, are being encouraged to examine their own governmental and other structures with a view to making the new partnership effective. In addition, there will in future be a structured dialogue between the Overseas Territories Governments and the United Kingdom Government, involving, inter alia, an annual Overseas Territories Consultative Council comprising the Chief Ministers or other representatives of the Overseas Territories Governments and the Ministers of the United Kingdom Government responsible for the Overseas Territories. Underpinning all this is the United Kingdom Government's recognition of, and its determination to respect in relation to each of its Overseas Territories, the right of self-determination that is set forth in article 1 of the International Covenant on Civil and Political Rights and in article 1 of the International Covenant on Economic, Social and Cultural Rights. In accordance with that right, the White Paper makes clear that, as in the past, where there is a general desire on the part of the population of an Overseas Territory to proceed to full independence and that is a practical option, the United Kingdom Government will respect that desire and will not stand in the way of its fulfilment. But where the desire is to retain the present connection with the United Kingdom, that, too, will be respected. and the United Kingdom Government, for its part, will continue to honour the commitments that are inherent in the connection.

(b) Citizenship

The question of the circumstances in which the inhabitants of Overseas Territories are entitled to enjoy full British citizenship is one in which the Committee has expressed an interest during its examination of previous reports under the Convention. The Committee will therefore welcome the White Paper's announcement that the United Kingdom Government intends to introduce legislation, as soon as parliamentary time allows, to confer full British citizenship on all British Dependent Territories citizens (as the inhabitants of the Overseas Territories generally now are). Full British citizenship will carry with it the right of abode in the United Kingdom and freedom of movement and residence elsewhere in the European Union and in the European Economic Area. But those persons who prefer to retain their British Dependent Territories citizenship will be able to do so. Moreover, the United Kingdom Government will not insist on reciprocity in respect of the right of abode: that is to say, any Overseas Territory that wishes to continue to impose immigration and residence restrictions on persons who do not "belong" to that Territory will be free to do so.

(c) Other human rights

As the White Paper makes clear in various contexts, the partnership between the United Kingdom and its Overseas Territories entails responsibilities on both sides. The United Kingdom has a commitment to defend the Overseas Territories, to encourage their sustainable development - and the White Paper describes in some detail what the United Kingdom Government's policies and measures are in that respect - and to look after their interests internationally. In return, the United Kingdom Government expects from the Overseas Territories Governments the highest standards of probity, law and order, good government and observance of the United Kingdom's international commitments. In this context, while the United Kingdom Government is confident that human rights are generally respected and protected in all the Overseas Territories, it recognizes that there is still a need for further measures to be taken, in certain respects, to ensure that the laws and administrative practices of the Overseas Territories conform fully with the relevant obligations of the United Kingdom under various human rights instruments and, more generally, with the broadly accepted norms in this field. The White Paper makes clear that, where necessary, the United Kingdom Government will continue to press the Governments of the Overseas Territories to take the appropriate steps to this end.

ANNEX A. ANGUILLA

1. General

3. The Committee is referred to the core document (the "country profile") in respect of Anguilla which is contained in annex I to HRI/CORE/1Add.62. Save as indicated elsewhere in the present annex, the position as regards the matters covered by that core document remain substantially as there described. The present population of Anguilla is estimated to be about 12,400 persons.

2. Information relating to articles 2 to 7 of the Convention

Article 2

4. The Government and people of Anguilla remain resolutely opposed to racial discrimination in any form. As previously reported, the Constitution of Anguilla expressly prohibits (and invalidates) any provision of law which is discriminatory either in itself or in its effect and also prohibits discriminatory treatment by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority. ("Discriminatory" is defined as meaning differentiating between persons by reference wholly or mainly to their race, place of origin, political opinions, colour, creed or sex.)

5. In addition to this prohibition of discriminatory legislation and of discriminatory action by Government or by public officers or public authorities, there are a number of specific laws that contain provisions prohibiting discriminatory treatment in the particular fields regulated by those laws, e.g. in education and employment. These are discussed more fully in paragraph 11 below. Apart from these laws, however, Anguilla still lacks legislation outlawing discrimination by private persons, groups or organizations. But, as previously reported, the United Kingdom Government has urged the desirability of introducing such legislation on the Government of Anguilla and has provided advice and assistance on the form which it might take. The Executive Council of Anguilla has agreed in principle to proceed in this way and it is expected that the relevant Bill will be included in the legislative programme of the new House of Assembly which was elected in the most recent general election (in March 1999).

6. Anguilla continues to enjoy a number of active and flourishing organizations (e.g. the Scouts, the Rotary Club, the Soroptimists) which work for international accord and friendship among all persons, irrespective of race, religion or any such distinction, and which seek to develop a spirit of friendship and unity among the peoples of all countries, to quicken the spirit of service and human understanding, and to contribute to international understanding and universal friendship. The contribution of these bodies to the prevention or elimination of racial discrimination or racial division is welcomed and encouraged by the Government of Anguilla and by the general population.

Article 3

7. Racial segregation or any comparable apartheid-like practice does not exist in any form in Anguilla and would not be tolerated by the people of Anguilla. But the model law which the United Kingdom Government has provided for the assistance of the Government of Anguilla in

the context of the proposed legislation prohibiting racial discrimination by private persons (see paragraph 5 above) does contain a provision whose effect is indeed to make racial segregation illegal in the fields to which that legislation applies. It is intended that such a provision will also feature in Anguilla's own legislation.

Article 4

8. As noted in previous reports under the Convention, acts of violence or incitement to violence are criminal offences under the law of Anguilla and are prosecuted and punished as such, whatever the motivation of those who commit them. However, as also previously reported - and unlike many other countries, including the United Kingdom itself - Anguilla has no history, and no expectation, of such acts being committed with a racial motivation or in circumstances manifesting racial hostility nor of activities involving incitement to racial hatred. In this situation, the Government of Anguilla has so far not judged it necessary to introduce legislation on the lines of the relevant legislation currently in force in the United Kingdom. But it will of course keep this question under review.

9. As regards racist organizations and the dissemination of racist views (falling short, that is, of incitement to violence or to racial hatred), it remains the case that no such organizations exist in Anguilla nor has there been any dissemination of such views, so that the need to consider the question of proscribing them has not arisen in practice. If it were ever to do so - which in fact there is no reason to expect - the Government of Anguilla would of course consider whether any fresh legislation or other measures were called for. This would be assessed in the light of the interpretation of article 4 of the Convention which the United Kingdom placed on record when it signed and ratified the Convention, as explained in the United Kingdom's current report in respect of its metropolitan territory.

Article 5

10. The right of all persons in Anguilla to equality before the law, notably in their enjoyment of the several rights mentioned in paragraphs (a) to (f) of article 5 of the Convention, and in particular their right to enjoy such equality without distinction as to race, colour, or national or ethnic origin, is for the most part guaranteed by chapter 1 of the Constitution of Anguilla ("Protection of Fundamental Rights and Freedoms" – see paragraph 39 of the core document referred to in paragraph 3 above). Even in those cases where the specific rights mentioned (e.g, some of the economic, social and cultural rights) are not themselves directly assured by the Constitution, section 13 of the Constitution would prohibit any law, or any act done in reliance on a law, or any action by a public officer or authority, which effectively discriminated on racial or similar grounds as regards the way in which the rights in question are realized or are protected. It should be noted, however, that the Constitution does permit laws to distinguish between "belongers" (that is, persons who have a defined connection with Anguilla) and "non-belongers". But this is essentially a citizenship distinction of the kind envisaged by article 1.2 of the Convention and it is in no way related to the race, colour, or national or ethnic origin of the persons concerned.

11. In addition to this general protection afforded by the Constitution to equality before the law in the enjoyment of the rights mentioned in article 5 of the Convention, Anguilla has some specific laws which expressly prohibit discrimination in particular fields. For example,

section 44 of the Education Ordinance 1993 makes it a criminal offence for a private school to deny admission to a child, or to expel a child, on account of race, religion or the political affiliation of the parent, while section 54 of the same Ordinance imposes a similar but more broadly worded prohibition in relation to public educational institutions. Similarly, section 11 of the Fair Labour Standards Ordinance 1988 prohibits an employer from terminating the employment of an employee on any of a number of specified grounds, which include race, colour and national extraction or social origin.

12. The protection against racial discrimination in the enjoyment of the rights mentioned in article 5 of the Convention that is described in the preceding paragraphs would not be operative against discrimination in the areas dealt with by article 5 (f) (e.g. as regards access to transport, hotels, restaurants, etc.) to the extent that such discrimination was practised by persons acting in a purely private capacity and not exercising any statutorily conferred authority. Even this theoretical gap will, however, be closed when the legislation referred to in paragraph 5 above is enacted. It should be added that discrimination of this kind is in practice unknown in Anguilla and would not be tolerated if it were to be attempted.

Article 6

13. As is noted in paragraph 40 of the core document (see paragraph 3 above), section 16 of the Constitution of Anguilla expressly provides a judicial remedy for the violation of any of the provisions of the Constitution which guarantee the fundamental rights and freedoms of the individual, and these provisions of course include the provision, described above, prohibiting racial discrimination effected by, or as the result of, any law or by any public officer or authority. The Constitution gives the High Court what are in effect unlimited powers to "make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing or securing the enforcement" of that provision. The laws referred to in paragraph 11 above also provide their own remedies for breaches of the particular anti-discriminatory provisions which they contain. For example, section 16 of the Fair Labour Standards Ordinance 1988 provides that a complaint made by an employee whose employment has been unlawfully terminated (e.g. on grounds of race) may be referred to the Labour Commissioner for settlement and, if he cannot settle it, may be adjudicated on by a tribunal set up under the Labour Department Ordinance 1988. The tribunal has the power in such a case to order either the reinstatement of the employee (if it considers that appropriate and reasonable) or the payment of compensation in lieu. It is expected that the more general legislation dealing with discriminatory practices by private persons and bodies which it is hoped will be enacted in the near future (see paragraph 5 above) will also establish its own enforcement machinery, including provision for the award of monetary compensation in appropriate cases.

Article 7

14. Though, as noted above, overt racial discrimination or segregation and the public propagation or dissemination of racist views are unknown in Anguilla and would be found offensive by all sections of the population, the Government of Anguilla is conscious of the need, in accordance with article 7 of the Convention, to preserve the existing climate of opinion which is indeed resistant to prejudices that could lead to racial discrimination and in which understanding and tolerance between racial and ethnic groups are fostered. As stated in

paragraph 6 above, the activities in this respect of such bodies as the Scouts, the Rotary Club and the Soroptimists are welcomed and encouraged. The texts of the various human rights instruments applicable to Anguilla are available to the public, and the Department of Information and Broadcasting gives appropriate publicity to human rights matters in news and discussion programmes. It is the intention of the Anguilla Government to use the occasion of the enactment of the legislation referred to in paragraph 5 above to give special publicity to, and to place special emphasis on, the importance of good race relations and the avoidance of any form of racial discrimination or racial prejudice.

ANNEX B. BERMUDA

1. General

15. The Committee is referred to the core document (the "country profile") in respect of Bermuda which is contained in annex II to HRI/CORE/1/Add.62. Save as is indicated in the following paragraphs of the present Annex, the position as regards the matters covered by that core document remains substantially as there described except that the following items of background statistical information (which in some cases are still provisional and subject to correction or are based on projected estimates) can now be substituted for the corresponding information set out in annex II, paragraph 4 of the core document:

Per capita income	$31 200 (1996/1997)
Gross national product	$2 259.6 million (1996/1997)
Rate of inflation	2.0% in 1997
Rate of unemployment:	
Males	4% (1991 (census)
Females	2% (1991 (census)
Literacy rate	97% (1995 estimate)
Population	61 210 (1998 provisional estimate)
Life expectancy:	
Males	70 (1997)
Females	78 (1997)
Infant mortality rate	4.7 per 1,000 live births (1997)
Birth rate	13.7 per 1,000 population (1997)
Percentage of population:	
Under 15 years old:	
Total	19.2% (1998) provisional estimate)
Males	19.8% " " "
Females	18.7% " " "
Over 65 years old:	
Total	10.0% " " "
Males	8.6% " " "
Females	11.25% " " "
Percentage of households headed by women	36% (1993 Household Expenditure Survey)

16. It is to be noted that, as part of a reshuffle of government ministries that took place on 6 May 1998, a new ministry, styled the Ministry of Development, Opportunity and Government Services, was created. It has responsibility for a number of areas and bodies concerned with "equality of opportunity" and "promotion opportunities", including (and of particular relevance to the Convention) the Human Rights Commission and the Commission for Unity and Racial Equality (see paragraphs 20 and 21 below).

2. Information relating to articles 2 to 7 of the Convention

Article 2

17. As previously reported, Bermuda has for some years had a wide range of laws whose purpose is to prohibit and prevent racial discrimination (as defined in the Convention) in both the public and the private spheres and to promote understanding between races. These laws, which continue to be vigorously implemented, are described more fully below.

18. The principal such law is the Constitution of Bermuda itself. Section 12 (1) of the Constitution prohibits any law which, either of itself or in its effect, discriminates between persons by reference to their race, place of origin, political opinion, colour or creed, and section 12 (2) similarly prohibits discrimination committed by any person acting by virtue of a written law or in the performance of the functions of any public office or public authority. Section 12 (7) of the Constitution prohibits the discriminatory treatment of any person in respect of access to any of the following places to which the general public have access, namely, shops, hotels, restaurants, eating places, licensed premises, places of entertainment and places of resort. Section 15 of the Constitution gives the Supreme Court of Bermuda very broad powers to enforce these prohibitions at the suit of any person who claims that they are being, have been or are likely to be contravened in relation to him.

19. These provisions in the Constitution have now been supplemented by various provisions in the Human Rights Act 1981 (as amended from time to time). As previously reported, these latter provisions (which are broadly similar to those of the United Kingdom's Race Relations Act 1976) render unlawful any racially discriminatory acts or practices by private persons or bodies in the areas of the supply of goods, facilities or services; accommodation; contracts; public notices; employment; and membership of organizations. The 1981 Act, as now amended, also prohibits the harassment of an employee in the workplace by his or her employer, or by the employer's agent, or by another employee, if the harassment is based on race, colour, ancestry or place of origin.

20. Again as previously reported, the 1981 Act established a Human Rights Commission as the principal enforcement agency for promoting and securing compliance with its provisions on discrimination. The Act has now been amended so as expressly to empower the Commission to approve special programmes which are designed to promote the equality of opportunity of disadvantaged persons or groups or to increase the employment of members of a class or group because of their race, colour, nationality or place of origin.

21. A further item in Bermuda's current armoury of legislation aimed at promoting racial harmony and preventing racial discrimination is the Commission for Unity and Racial Equality Act 1994 which established the Commission for Unity and Racial Equality (CURE) and defined its principal functions as:

> "(a) To promote equality of opportunity, and good relations between persons of different racial groups; and

(b) To work towards the elimination of racial discrimination and institutional racial discrimination."

One of CURE's specific functions is the issuing, with the approval of the Minister and of both Houses of the Bermuda Legislature, of codes of practice containing practical guidance for the elimination of racial discrimination in the employment field and for the promotion, in that field, of equality between persons of different racial groups. It was previously reported that, in exercise of this function, CURE was working on a draft code of practice for race relations in the workplace. It can now be reported that this Code, having received the necessary approval, was eventually issued in September 1997 under the title "Code of Practice for the Elimination of Racial Discrimination and the Promotion of Equality in Employment".

22. Bermuda's criminal law also now includes provisions permitting the prosecution and punishment of certain kinds of racially discriminatory conduct. The Criminal Code, as now in force, recognizes the separate offences of racial harassment and racial intimidation, in each case constituted by specified acts committed with the intention of causing another person distress, fear or alarm and with the motivation of antipathy to that other person on grounds of race, colour or place of origin. In addition, the Human Rights Act 1981 makes it a criminal offence to publish threatening, abusive or insulting words in a public place or at a public meeting if that is done with intent to excite or promote ill will or hostility against any section of the public by reference to its colour, race or national or ethnic origins. It is similarly a criminal offence for any person to do any act calculated to excite or promote such ill will or hostility if he does it with intent to incite a breach of the peace or if he has reason to believe that a breach of the peace is the likely result.

23. As regards the positive advancement of good relations among persons of different racial groups, and specifically the promotion of multiculturalism and the elimination of barriers between races, the Committee's attention is drawn not only to the functions exercised directly by the Human Rights Commission and by CURE but also to the work which the latter has done, and is doing, with a wide variety of governmental and non-governmental organizations. Among these are the Department of Education (whose Multicultural Education Committee assists with the implementation of a multicultural school curriculum that builds acceptance of others and dispels racial and ethnic myths and stereotypes); the Department of Health (whose Health for Success Committee promotes racial and ethnic considerations as important aspects of the promotion of health in public schools); the Bermuda College (whose Future Search Planning Committee has assisted in organizing a workshop to bring together 200 participants of diverse backgrounds to discuss various aspects of Bermudian life and gain consensus on plans for Bermuda's future); the Racism Committee of the Anglican Church; the National Training Laboratory; the National Association of Reconciliation; the Baha'i Community; and "Beyond Barriers". The four last-mentioned organizations and groups co-operated with CURE and a number of other interested groups and individuals in jointly sponsoring a "Day of Dialogue Committee" which helped to bring together more than 100 persons to focus on the issue of race. The establishment of CURE has itself led to the growth and development of a variety of multiracial organizations and movements. In this connection it may be mentioned that, some four or five years ago, CURE, in partnership with the Bermuda College, the National Training Laboratory and members of the business community, created and funded a diversity skills development programme which, in the years 1995-1997, operated intensive sessions in the

course of which some 90 persons were trained as facilitators. These persons in turn conducted a series of diversity training courses throughout the community. In 1998 the graduates of the Programme, together with other interested persons, formed the Diversity Institute of Bermuda, a non-profit organisation committed to creating, through education and research, an environment that promotes awareness and appreciation of human diversity.

Article 3

24. Racial segregation was made unlawful in Bermuda as early as 1969 when the Race Relations Act of that year expressly equated it, for the purposes of the Act, with racial discrimination. A similar provision is now included in the Human Rights Act 1981 (see para. 19 above). Attention is also drawn to the provisions of section 12 (7) of the Constitution (see para. 18 above), which outlaw racial segregation in respect of access to places of public resort. The practice of racial segregation in any form would, in any event, be wholly unacceptable in modern Bermudian society.

Article 4

25. As noted in paragraph 22 above, Bermuda now has a number of statutory provisions dealing with the incitement or promotion of racial hatred. As is there reported, section 8A of the Human Rights Act 1981 enables the authorities to prosecute persons who, either by written material that is published or is displayed before the public or by the use of words in a public place or at a public meeting, intentionally excite or promote racial ill will or hostility; and the same section prohibits any acts calculated to excite or promote such ill will or hostility if they are done with the intent to induce a breach of the peace or if the person concerned has reason to believe that they will do so. As is also reported above, the Criminal Code has been amended (in 1995) so as to create the separate offences of racial harassment and racial intimidation, and it was further amended in 1998 to make clear that racial harassment can be committed by oral communication as well as in other ways.

26. Having regard to the need, whilst vigorously combating racist views, to take full account of the rights to freedom of expression and to freedom of association (as set out in the Universal Declaration of Human Rights and as referred to in articles 4 and 5 of the Convention), and in accordance with the interpretation of article 4 recorded by the United Kingdom when it signed and ratified the Convention, the Government of Bermuda has so far not judged it necessary, in order to achieve the purposes of article 4, to proscribe the mere expression of such views or the mere existence of organizations holding such views if, in each case, there is no actual incitement to racial hatred and no element of a threat to public order. But the Government of Bermuda remains alert to the need to keep the situation in this respect under review and to reconsider the desirability of further legislation or other measures if a change in the situation so warrants.

Article 5

27. The right of all persons in Bermuda, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in their enjoyment of the rights specifically referred to in article 5 of the Convention, is guaranteed in law and is secured in practice, by the legislation described in paragraphs 17 to 21 above, in particular the Constitution of Bermuda, the Human Rights Act 1981 (as amended) and the Commission for Unity and Racial Equality Act 1994.

Article 6

28. The following paragraphs describe the arrangements by which the laws of Bermuda that prohibit racial discrimination in its various forms also establish the necessary machinery to enforce compliance with that prohibition and to secure redress for the victims of any contraventions of it.

29. As is explained in the core document (see para. 15 above), section 15 of the Constitution of Bermuda confers on any person who alleges that any of the provisions of the Constitution which guarantee his fundamental rights and freedoms (including, of course, the provision prohibiting racial discrimination) has been, is being or is likely to be contravened in relation to him the right to make direct application to the Supreme Court for redress, and the Supreme Court then has the power to "make such orders, issue such writs and give such directions as it may consider appropriate" for that purpose. The Supreme Court, however, will not exercise that power if it is satisfied that the complainant has, or has had, adequate means of redress available to him under some other law.

30. The core document, as supplemented by previous reports under the Convention, also describes the machinery which exists under the Human Rights Act 1981 for securing redress for a victim of discrimination prohibited by that Act. Briefly, such a person may make a complaint to the Human Rights Commission established under the Act and the Commission must then investigate the complaint - it has wide powers for this purpose - and, if possible, settle it by its good offices. If a settlement is not possible, it may, in certain circumstances, institute criminal proceedings or, if this is not appropriate, it may refer the case to the Minister who may then refer it to a board of inquiry. If such a board finds that there has indeed been unlawful discrimination, it may order full compliance with the contravened provision of the Act and may also order rectification of the injury thereby caused and the payment of financial compensation for it. By virtue of an amendment to the Act, this may now include financial compensation for injury to feelings. The same amendment to the Act also empowered a person claiming to be the victim of unlawful discrimination to bring ordinary civil proceedings in the courts for damages, and these, too, may include damages for injury to feelings.

Article 7

31. The Government of Bermuda, directly or through various public bodies, organizes or sponsors or encourages a number of programmes and events that are aimed at combating racial discrimination and racial prejudices and at enhancing understanding and goodwill among different racial and ethnic groups. For example, the Human Rights Commission, in partnership with Amnesty International, hosts special programmes for schools on 10 December each year to commemorate the Universal Declaration of Human Rights. Similarly, but in this case in partnership with the Commission for Unity and Racial Equality, it hosts annual public programmes, on 21 March each year, to commemorate the International Day for the Elimination of Racial Discrimination. The Department of Cultural Affairs itself hosts a public programme each year to commemorate Emancipation Day (1 August) and it also sponsors island-wide events in May of each year in celebration of Bermuda's diverse heritage. In the non-governmental field, Amnesty International, the National Association for Reconciliation and "Beyond Barriers" are all active in the community with programmes of their own to combat racial discrimination and to promote good community relations.

ANNEX C. BRITISH VIRGIN ISLANDS

1. General

32. The Committee is referred to the core document ("the country profile") in respect of the British Virgin Islands (the BVI) which is contained in annex III to HRI/CORE/1/Add.62. Save as is indicated in the following paragraphs of the present report, the position as regards the matters covered by that core document remain substantially as described in it. However, the following more up-to-date statistical information should be substituted for the information set out in annex III, paragraph 1, of the core document.

	1997	1998
Per capita income	US$ 28,434	US$ 30,117
Gross domestic product	US$(m) 543.3	US$(m) 586.7
Rate of inflation	4.3%	5.97%
External debt (US$m)	35.4%	32.3%
Rate of unemployment	3.56%	N/A
Adult literacy rate	98.2%	98.2%
Percentage of population speaking English as mother tongue	N/A	90.0%
Life expectancy		
Males	72.5	N/A
Females	76.5	N/A
Infant mortality rate (per 1,000)	5.7	N/A
Maternal mortality rate	0.0%	0.0%
Fertility rate	2.21%	1.74%
Percentage of population		
under 15	26.97%	26.86%
65 and over	5.04%	4.9%
Population	19,107	19,482

Note: About 85 per cent of the population of the BVI are of mainly African descent, the rest being white (about 7 per cent), East Indian and mixed. Over 50 per cent of the population are recent or long-term immigrants, the bulk of whom (about 40 per cent of the total population) are from other Commonwealth countries in the Eastern Caribbean (principally St. Kitts and Nevis, and St Vincent) and Guyana. The remainder of the immigrant population are from North America, Europe and other countries. The fastest-growing group of immigrants in recent years has been those from the Dominican Republic. These are mainly Spanish-speaking but competent in English. (A significant number are descendants of BVI migrant labourers who went to the Dominican Republic in the early years of the twentieth century.)

Percentage of population in urban and rural areas	(Tortola) 82.11%	(Tortola) 82.11%
(The corresponding distinction in the BVI is between Tortola and the other islands.)	(Other islands) 18.0%	(Other islands) 18.0%
Percentage of households headed by women	N/A	28.7%

33. In addition, the following information brings the core document up-to-date in the further respects indicated. The paragraphs cited in brackets are those of annex III to the core document.

(a) The Executive Council now comprises the Chief Minister and three other Ministers as well as the Attorney-General as an ex officio member (para. 5).

(b) As regards the Legislative Council (para. 6), the reference to "an island-wide electoral district" should have been a reference to "a territory-wide electoral district".

(c) It is now the practice for statutes passed by the Legislative Council and assented to by the Governor to be styled "Acts" rather than "Ordinances" (para. 7).

(d) The maximum period which may elapse after the dissolution of the Legislative Council before a general election is held is now three months (para. 8).

(e) The principal political parties in the BVI are now the Virgin Islands Party; the Concerned Citizens Movement; the National Democratic Party; and the United Party (para. 14).

(f) It is now the practice for two judges of the Eastern Caribbean Supreme Court to be resident in the BVI (para. 17).

34. In 1993, a review of the Constitution of the BVI was carried out by three Constitutional Commissioners. Their terms of reference were: "To carry out a review of the Constitution of the British Virgin Islands in response to the Resolution of the Legislative Council of the British Virgin Islands of 27 November 1992 and, in furtherance of Her Majesty's Government's policies, to ensure the continued advance and good government of the British Virgin Islands".

35. The Commissioners' report was published in April 1994. Among its recommendations was that the Constitution of the BVI should include a judicially enforceable bill of rights; and draft provisions for that purpose were annexed to the report. These include a provision, in standard terms, prohibiting the making of any law which is discriminatory either of itself or in its effect or the discriminatory treatment of any person either by any other person acting by virtue of a written law or in the performance of the functions of any public office or by any public authority. ("Discriminatory" is defined so as to include racial discrimination in terms of the Convention.) This proposal for a judicially enforceable bill of rights to be included in the Constitution of the BVI was among those that were considered when the Commissioners' report was debated in the Legislative Council in June 1996 and it then received the Legislative Council's general support. The Commissioners' report was also accepted by the

United Kingdom and BVI Governments and action to implement its recommendations was put in train as soon as possible. In particular, work has begun, and is now in progress, on the drafting of a new Constitution for the BVI which will contain a judicially enforceable bill of rights, including an express prohibition of racial discrimination.

36. Other current or recent policies and measures aimed at preventing racial discrimination in the BVI, including the projected enactment of a law (on the lines of the United Kingdom's Race Relations Act 1976) prohibiting racial discrimination by private persons or bodies, are discussed in paragraphs 37 to 42 below (in connection with article 2 of the Convention).

2. Information relating to articles 2 to 7 of the Convention

Article 2

37. The Government of the BVI is very conscious of the wide variety of forms which racial discrimination may take and the wide range of circumstances which may give rise to it. It is therefore alert to the need to prevent such discrimination, or to eradicate it, whenever and in whatever shape it might occur. Accordingly, and despite the fact that it is confident that such discrimination, in any form, is in practice a rare occurrence in the BVI - the problem is certainly not regarded as a major issue by the general population (whose broad and easy mix of race, colour and national or ethnic origins is indicated in paragraph 32 above) - its attitude on this matter is by no means one of complacency. It has therefore adopted, or is currently pursuing, a number of policies and measures calculated to combat racial discrimination, whether actual or apprehended.

38. In the field of general policy, attention is drawn to a Memorandum of Co-operation and Partnership that was signed in September 1998 by the Governments of the United Kingdom and the BVI. In this Memorandum, the BVI Government committed itself to the democratic principles of government, including:

> Respect for the rule of law and fundamental principles in the Constitution, including the protection of fundamental rights and freedoms;
>
> Maintenance of human rights standards, in accordance with the laws of the BVI;
>
> Maintenance of law and order and social peace and stability;
>
> Representative and participative government, including periodic free and fair elections; and
>
> Freedom of speech.

It is clear that the achievement and maintenance of a high degree of willing acceptance and understanding of the multiracial nature of BVI society is implicit in the observance of these principles. The BVI Government is committed to work to that end. This is, of course, fully in

accordance with the position taken by the United Kingdom Government towards the observance of human rights in all the United Kingdom's Overseas Territories, as described in paragraph 2 (c) above.

39. In terms of concrete measures to combat possible racial discrimination, mention should first be made of the agreement of the United Kingdom and BVI Governments (see para. 35 above) that the new BVI Constitution should include a judicially enforceable provision prohibiting both discriminatory legislation and the discriminatory exercise of any function authorized by law or any of the functions of a public officer or a public authority. It may be added that even under the present Constitution there is already some degree of protection against possibly discriminatory legislation in that the Governor may not give his assent to any Bill which "appears to him to be inconsistent with any obligation of Her Majesty or of Her Majesty's Government in the United Kingdom towards any other state or power or any international organisation". A further "fall-back" protection is provided by the procedure attached to the formal power of disallowance (see annex III, para. 7 of the core document referred to in para. 32 above) which enables the United Kingdom Government to question any undesirable provision even after the legislation has been enacted and to ask for it to be reconsidered and, if necessary, amended.

40. Moving beyond the field of "official" discrimination (i.e. discriminatory legislation and discriminatory actions by public officers or public authorities), it is now possible to report progress as regards the prohibition of "private" discrimination (i.e. discrimination committed by private persons or private organizations). Partly in response to the views expressed by the Committee in its consideration of previous reports under the Convention, the BVI Government has accepted the desirability of enacting legislation for that purpose closely modelled on the United Kingdom's Race Relations Act 1976 (as amended); and a comprehensive Anti-Discrimination Bill was accordingly introduced in the Legislative Council in February 1999. Its effect, when enacted, will be to prohibit discrimination on grounds of colour, race, nationality or ethnic or national origins in a wide range of fields, including employment, education, the provision of goods, facilities or services, the disposal or management of premises, and membership of associations. Unfortunately, there proved to be insufficient time for the Legislative Council then in existence to proceed with the Bill before the Council was dissolved in preparation for the holding of a general election. But it is to be reintroduced in the new Legislative Council that has now been elected and it is confidently hoped that its passage can be completed in the very near future.

41. It is also hoped that, at the same time as the Legislative Council is proceeding with the comprehensive Anti-Discrimination Bill, it will be able to proceed with a new Labour Code Bill which was also introduced in the previous Council but had to be withdrawn and which will contain additional and complementary provisions dealing with discrimination in the particular field of employment. The new Labour Code will expressly prohibit discrimination on grounds of, inter alia, race, colour, ethnic origin or nationality in relation to a wide range of employment matters. These will include - but this is not an exhaustive list - the recruitment, selection and engagement of employees, their retention or dismissal, the terms and conditions of their employment, their conditions of work and related procedures, and their training and promotion, as well as such related matters as membership of partnerships, membership of trade unions and other employees' organizations, membership of employers' organizations and membership of

professional and trades organizations. Discrimination is defined, for the purposes of this prohibition, as "any distinction, exclusion or preference the intent or effect of which is to nullify or impair equality of opportunity or treatment in occupation or employment".

42. It should be added that the existing Education Ordinance already prohibits the refusal of admission of a person to any government school or assisted school on account of his (or his parents') religious persuasion, race or language: the new Anti-Discrimination Bill will of course impose a more far-reaching prohibition of discrimination in the field of education.

43. As regards positive measures to prevent racial division and to promote racial harmony, of the kind called for by paragraph 1 (e) of article 2 of the Convention, it can be reported that the Government of the BVI does indeed actively support and encourage non-governmental and private bodies which pursue those objectives and which, more generally, work for international peace and understanding and for the elimination of racial barriers. Examples of such bodies which enjoy the support of the BVI Government - in some cases in the form of grants from public funds - are the Boy Scouts and Girl Guides, the Rotary and Rotoract Clubs, Lions International and Soroptimist International. The BVI Government also gives grants, and provides facilities, for various mixed race sporting groups.

Article 3

44. The Government and people of the BVI warmly welcome the dismantling of the apartheid system in South Africa. As regards other possible forms of racial segregation, the BVI Government is alert to the considerations to which the Committee has drawn attention in its General Recommendation XIX (47) of August 1995 but is confident that racial segregation, in any form, does not exist in the BVI and would not be tolerated by the people of the BVI if there were any attempt to practise it. Nevertheless, in conformity with article 3 of the Convention, the Anti-Discrimination Bill that is referred to in paragraph 40 above does contain a provision which treats racial segregation as equivalent to racial discrimination and therefore renders it unlawful in the fields to which the Bill applies.

Article 4

45. It remains the position that, irrespective of the presence or absence of racial motivation or of circumstances manifesting racial hostility, acts of violence or incitement to violence, including threats or conspiracy to commit violence, are criminal offences under the law of the BVI. Given the broad mix of persons of different origins in the population of the BVI (see para. 32 above) and the climate of multiracial tolerance that obtains there, no necessity has hitherto been seen for the introduction of measures aimed specifically at incitement to racial hatred or at the commission of racially motivated crimes. Offences of this nature are in fact unknown in the BVI. But if the situation in this respect were to change - which, in the assessment of the BVI Government, there is no reason to expect - the desirability of introducing legislation to clamp down on such conduct would of course be examined afresh.

46. Similarly, the existence of racist organizations and the dissemination of racist propaganda are phenomena which are wholly unknown in the BVI and the need for legislation to suppress or prevent them has consequently never arisen. Again, given the circumstances of the BVI, the

Government of the BVI has no reason to expect that situation to change. But if it were to do so, the case for introducing such legislation would of course be re-examined in the light of the circumstances as they then were and in the light of the United Kingdom's interpretation of article 4 as recorded when it signed and ratified the Convention.

Article 5

47. Though there is at present no provision of law which expressly guarantees equality before the law without distinction as to race, colour, or national or ethnic origin, such equality is in fact inherent in the legal system in force in the BVI (as explained in the core document: see para. 32 above) and would be jealously and vigorously upheld by the courts if it were ever called in question. When the Constitution of the BVI is amended to include a judicially enforceable Bill of Rights (see para. 35 above), this position will of course be reinforced by such an express provision.

48. As regards, specifically, equality before the law in the enjoyment of the particular rights referred to in article 5 of the Convention, the legal position will, again, largely be covered by the forthcoming introduction of a Bill of Rights as part of the Constitution, as supplemented by the Anti-Discrimination Bill to be enacted in the near future. Broadly speaking, the civil and political rights referred to in article 5 will be covered by the Bill of Rights while the economic, social and cultural rights (and also the right of access to public places and services, e.g. transport, hotels, restaurants, etc.) will be covered by the Anti-Discrimination Bill. But, even in advance of those measures, there is no discrimination on grounds of race, etc., in the way in which the rights in question are in fact enjoyed and protected in the BVI. It is relevant to note that the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, which together expressly guarantee those rights and their non-discriminatory enjoyment, are applicable to the BVI and the requisite reports under them are submitted to the respective monitoring committees.

49. Though the Bill of Rights to be inserted in the Constitution of the BVI and the anti-discrimination legislation to be enacted in the near future will then constitute the principal formal safeguard for the equal enjoyment of the rights referred to in article 5 of the Convention, they will not be the only provisions of law which serve that purpose. As noted in paragraphs 41 and 42 above, it is intended that the new Labour Code Bill will contain additional and supplementary provisions to prohibit discrimination in the employment field and BVI law already prohibits certain kinds of discrimination in the field of education.

Article 6

50. The ordinary civil law of the BVI already provides remedies (e.g. by way of judicial review or in some cases through the award of monetary compensation) for discriminatory conduct which involves the infringement of another person's legal rights. But each of the proposed legislative measures, referred to above, that will in future expressly prohibit racial discrimination in their respective fields will also provide specific effective remedies for the victims of such unlawful discrimination. Thus, under the Bill of Rights which is to be included in the Constitution of the BVI and which is to contain an express prohibition of "official" discrimination, a person who claims that he has been, or is, or is in danger of being, a victim of

such unlawful discrimination will be able to apply to the High Court for relief, and the High Court will have a very wide jurisdiction to investigate and determine that claim and to order an appropriate remedy. Similarly, the proposed Anti-Discrimination Bill will contain provision enabling the victim of discrimination which that legislation has rendered unlawful to bring civil proceedings (in the same manner as any other claim in tort) against the perpetrator of the discrimination; and the damages that he may obtain in those proceedings include compensation for injury to feelings. Likewise, the proposed new Labour Code Bill, as well as rendering discrimination which is prohibited by the Code a criminal offence for which the perpetrator is liable to be prosecuted and fined, will establish a special civil procedure to which the victim of the discrimination may resort. Under this procedure (which is "without prejudice to any other remedy that may be available in any competent court") an aggrieved person may refer the case to the Labour Commissioner who, if he cannot effect a voluntary settlement between the parties, may refer it to the Minister. If the Minister also cannot secure a voluntary settlement, he may refer it to a tribunal, and the tribunal, if it finds the unlawful discrimination proved, may make a variety of orders, including directing the payment of compensation, directing the redressing of the contravention (including, where appropriate, the re-engagement or reinstatement of the complainant), declaring void any decision found to have been based on unlawful discrimination, and "prescribing any other remedy the Tribunal may deem fair and just to remedy the cause and effect of the act or omission of the employer".

Article 7

51. Though, as noted above, racial discrimination is not, in present circumstances, a major issue in the BVI, it is the policy and practice of the BVI Government, on appropriate occasions, to emphasize the need to resist prejudices which may lead to racial discrimination, and to promote understanding and good relations between persons of different racial or ethnic groups. For example, the Chief Minister of the BVI has made a point of drawing public attention to the BVI's recent reports under the Convention (the thirteenth and fourteenth periodic reports) by causing copies to be "laid on the table" of the Legislative Council, thus ensuring that their contents are generally available and receive appropriate publicity; this action was in fact expressly noted in some sections of the local media. The government-licensed medium wave radio station broadcasts twice daily, as a public service, an advertisement against racism which is provided by UNICEF.

52. In 1996 the BVI Government Information Service sponsored a series of public meetings throughout the BVI to discuss the contents of the proposed new Constitution containing a judicially enforceable Bill of Rights (including an express prohibition of discrimination). More recently, the text of the Anti-Discrimination Bill was published in the Official Gazette when it was first introduced in the Legislative Council (see para. 40 above) and it was thus brought to the attention of the general public. (The Gazette is circulated not only throughout the government service but also to a large number of local subscribers including the press.) Though the Bill did receive some favourable mention in radio broadcasts, it is right to say that it has so far not evoked much public reaction (which reflects the fact, as noted above, that racial discrimination is not a major issue in the BVI). However, the publication of the Bill ensures that, by the time that

it comes to be debated in the Legislative Council, all interested persons will have had an opportunity to study its provisions. The Government of the BVI looks forward to that debate serving as a valuable occasion for public education and public discussion of the larger issues underlying the Bill.

53. The curricula of the public schools do not specifically provide for the teaching of the matters referred to in article 7 of the Convention but those matters (and in particular the need for tolerance and understanding between different nations and different racial and ethnic groups) are covered by individual teachers in the course of teaching the social studies and civics sections of the curriculum.

ANNEX D. CAYMAN ISLANDS

1. General

54. The Committee is referred to the core document ("the country profile") in respect of the Cayman Islands, which is contained in annex IV to HRI/CORE/1/Add.62. Save as is indicated in the following paragraphs of the present report, the position as regards the matters covered by that core document remain substantially as described in it. The most up-to-date estimate of the population of the Cayman Islands (as at the end of 1997) is 36,600, compared with an estimated 35,000 at the end of 1996 (reflecting a population growth of 5 per cent). The majority of the population live in Grand Cayman, with some 1,600 in Cayman Brac and some 120 in Little Cayman.

55. As a result of the history of the Cayman Islands over the past two or three centuries, as briefly summarized below, the current population of the islands is extraordinarily mixed in terms of racial or ethnic origin, colour and nationality, with all elements now mixing freely, unaffected by racial prejudice or racial self-consciousness. The predominant and pervasive attitude among all sections shows little or no awareness of colour or race as a significant factor in daily life.

56. The islands were uninhabited when discovered by Columbus in 1503 and they remained unsettled (save for some forays by pirates and other marauders) until the seventeenth century. British possession was recognized by the Treaty of Madrid, 1670, and thereafter - and until 1959 - the Cayman Islands constituted a dependency of Jamaica, which was then still a colony of the United Kingdom. In 1959 it was separated from Jamaica and acquired its own Constitution, which has subsequently been replaced (most recently in 1972, with later amendments). The early settlers included explorers, missionaries, deserters from invading forces from Jamaica, African slaves, buccaneers, turtle-fishermen, boat builders and professional seafarers. In recent years the population made up of the descendants of these persons has been augmented by foreign workers who have brought the additional skills needed to supplement those of the relatively small "indigenous" labour force. At the end of 1997, it was estimated that persons enjoying full Caymanian status constituted about 58 per cent of the total resident population. Most of the rest were foreign workers though a significant number were persons who, though not themselves having Caymanian status, enjoyed permanent residence in the islands or who were dependants of persons having Caymanian status or of foreign workers, or who had been given special permission (for example, as refugees) to work or reside in the islands. It should be added that there is a high incidence of inter-racial marriage.

57. By far the greatest number of the foreign workers in the Cayman Islands currently come from Jamaica, with the next highest numbers coming from the United States of America, Canada and the United Kingdom. Substantial numbers come from other countries in the Caribbean and also from countries in Central and South America, while smaller (but in some cases not insignificant) numbers come from countries in Africa, Asia, Australasia and Europe. The following are the statistics of the work permits issued to foreign workers in 1997 and 1998:

	1997	1998
Work permits for 1-3 years and renewals	10,449	12,758
Work permits for 6 months or less	1,652	950
Temporary work permits (for 30 days) and extensions	8,342	628

58. This wide racial "mix" both in the settled population and in the substantial complement of foreign workers is further enhanced by the presence, at any one time, of a large number of tourists from a wide variety of countries. Tourism is one of the twin cornerstones of the economy of the Cayman Islands - the other is financial services - and both of them require (and at the same time help to foster) a society and culture characterized by racial harmony and integration. Tourism in the Cayman Islands is in fact flourishing. The total number of visits by tourists in 1997 rose by 8.9 per cent over the figure for 1996. There were, in 1997, 381,188 "non-resident (stay-over)" arrivals and 865,383 cruise passengers who came ashore, making approximately 1.25 million visitors in total - a significant and welcome contribution to the overall mixture of races, colours and nationalities.

2. Information relating to articles 2 to 7 of the Convention

59. Because of the racially integrated nature of Caymanian society, as explained above, and the resulting absence of any serious manifestation of racial discrimination, it has not hitherto been judged necessary by the Government of the Cayman Islands to introduce legislation whose central purpose would be to make racial discrimination unlawful. The Bill of Rights which, as previously reported to the Committee, it has been proposed should be incorporated into the Constitution of the Cayman Islands would, it is envisaged, contain a provision prohibiting (and thus invalidating) any law which was discriminatory either of itself or in its effect and also prohibiting any discriminatory action committed by any person acting by virtue of any law or committed in the exercise of the functions of a public office or a public authority; and "discriminatory" would, for the purposes of this provision, be so defined as to include racial discrimination within the meaning of the Convention. But this proposal to incorporate a Bill of Rights in the Constitution has been questioned in some quarters in the Cayman Islands and is, therefore, currently still the subject of consideration by a Select Committee of the Legislative Assembly. In the meantime, the position so far as legislation passed by the Legislative Assembly is concerned is covered by a provision in the Royal Instructions (which form part of the Cayman Islands Constitution) precluding the Governor, except with the prior authority of the Secretary of State for Foreign and Commonwealth Affairs of the United Kingdom, from assenting to any bill which discriminates between persons of different communities or religions or which appears to him to be inconsistent with the United Kingdom's treaty obligations (including, of course, those arising under the Convention).

60. As regards racial discrimination by private persons and organizations, and as has also been previously reported, the United Kingdom Government has drawn the attention of the Cayman Islands Government to the Committee's views on the need for general legislation to prohibit such discrimination and the United Kingdom Government has also provided advice and assistance on the form which that legislation might take. This matter is still under active

consideration by the Cayman Islands Government but no decision has yet been taken. However, the new Labour Law, enacted in 1996, does deal with racial discrimination in the particular field of employment. Section 79 of that Law makes it a criminal offence for any person (whether employer or employee) to discriminate with respect to any person's hire, promotion, dismissal, tenure, wages, hours or other conditions of employment on any of a number of grounds, specifically including race, colour and creed. A person who contravenes this prohibition is liable, on summary conviction, to a fine of $5,000 and to imprisonment for 12 months.

61. So far as concerns positive measures to encourage multiracial organizations and activities and generally to promote racial harmony and eliminate racial barriers are concerned, a recent relevant development was the formulation by the Cayman Islands Government, in 1998, of a 10-year National Strategic Planning Initiative, entitled "Vision 2008". This initiative is designed to prepare the Cayman Islands to meet the challenges of the new millennium, and integral to it is a process of intensive public consultation at the community level. This has already produced a number of agreed instruments, including a "vision statement", a set of "parameters" and a 16-point set of "strategies", which are to serve as the basis for future work by round table groups again based on public participation - that will in turn lead to the promulgation of a comprehensive strategic plan defining the goals of the Government and people of the Cayman Islands for the next 10 years. This initiative, of course, covers a very wide range of topics, of which the prevention or discouragement of racial discrimination is merely one. But it is to be noted that the "Vision Plan" expressly looks to a Cayman Islands that is "a caring community based on mutual respect for all individuals and their basic human rights" and "a community which practises honest and open dialogue to ensure mutual understanding and social harmony", while the "parameters" include the statement that "We will ensure the social integration of all residents of the Cayman Islands". Action on the second and third phases of "Vision 2008" (the work of the round table groups and the consideration of the plans that they draw up) is now under way.

62. As previously reported, the Cayman Islands benefit from the flourishing activities of a number of private or non-governmental organizations, such as the Scouts, the Rotary Club, the Lions Club and the Kiwanis, whose membership is multiracial and which promote racial harmony and prevent racial separateness. They are welcomed and encouraged by the Cayman Islands Government.

63. Given the racially mixed and integrated character of the population of the Cayman Islands, as explained above, it will be understood that no form of racial segregation or any other apartheid-like behaviour would be tolerated there, and nothing of that kind in fact takes place or is likely to be attempted. In these circumstances, the Cayman Islands have not thought it necessary to legislate expressly to prohibit or prevent it. But if it is decided to introduce general legislation prohibiting racial discrimination by private persons or organizations on the lines recommended by the United Kingdom Government (see para 60 above), it is likely that this will contain a provision formally equating racial segregation with racial discrimination (and thus making it unlawful) in the areas to which that legislation will apply.

Article 4

64. Acts of violence and incitement to violence, whatever the motives or attitudes or beliefs of those who commit them, are of course criminal offences under the law of the Cayman Islands, but the fully integrated and racially harmonious nature of current Cayman Islands society has made it unnecessary for there to be special provision for such acts, or such incitement, committed with a "racial motivation". A provision of that sort would have no practical application. Similar considerations underlie the fact that Cayman Islands law currently makes no express provision against incitement to racial discrimination or to racial hatred. Activities of this sort, too, are, for practical purposes, non-existent in the Cayman Islands and would attract no support - indeed, would be likely to backfire on the perpetrators - in the very unlikely event of their being attempted. It can be added, however, that the Cayman Islands Government is of course alert to the need, in conformity with the Convention, to take appropriate measures to prevent or suppress such activities if there ever seemed to be a real danger of the situation changing in the respect.

65. For similar reasons, the Cayman Islands have to date not found it necessary to legislate against the dissemination of ideas of racial superiority nor is there legislation proscribing organizations which propagate such ideas or promote racial discrimination or engage in what may be generally described as racist activities. These phenomena are unknown in the Cayman Islands and would undoubtedly be resented and resisted by the totality of the population if there were any attempt to introduce them in any form. The Cayman Islands Government is confident that this will remain the case, but it will of course keep the matter under review and be prepared, if the situation should materially change, to consider what measures might then be called for in accordance with article 4 of the Convention.

Article 5

66. There is at present no specific written provision of Cayman Islands law which is expressly directed at ensuring equality before the law without distinction as to race, colour or national or ethnic origin. But such equality is inherent in the legal system of the Cayman Islands, as operated and enforced by the wholly independent and impartial courts structure described in the core document (see para 54 above). It may be added that, if the decision is taken to incorporate a bill of rights into the Constitution of the Cayman Islands (see para 59 above) and this takes a similar form to that of comparable provisions in the Constitutions of other United Kingdom Overseas Territories, the present factual and legal position will then be formally reinforced by an express constitutional guarantee.

67. As regards the specific rights referred to in paragraphs (a) to (e) of article 5 of the Convention, it can confidently be stated that there is no differentiation whatever - whether by reference to race, colour, national or ethnic origin, or any other distinction of that kind - in the way in which those rights are enjoyed by all persons in the Cayman Islands and are respected and enforced by the legislative and executive authorities and by the courts. It is to be noted that the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, which together directly guarantee the equal enjoyment, without racial or other discrimination, of all the rights mentioned in article 5 of the Convention,

have both been extended to the Cayman Islands and the requisite reports have been submitted to the Human Rights Committee and the Committee on Economic, Social and Cultural Rights respectively.

Article 6

68. If conduct which amounted to racial discrimination contrary to the Convention also involved the infringement of a person's ordinary legal rights - though the Cayman Islands Government is not aware of any case where such conduct has in fact been alleged - Cayman Islands law would provide an adequate remedy, which could, in appropriate cases, include an award of monetary compensation. Outside that possibility, current Cayman Islands law does not, generally speaking, provide remedies for acts of racial discrimination as such (since, as explained above, the extreme rarity of such acts in practice has made it unnecessary to legislate so as to render them expressly unlawful). One particular exception to this position is afforded by the Labour Law 1996. This Law, in prohibiting discrimination in the field of employment (see para 60 above), also establishes a procedure whereby the victim of unlawful discrimination may apply for relief to the Labour Tribunal, which has power to order, among the other remedies which it may grant, the payment of monetary compensation. In addition, if it is eventually decided that the Cayman Islands should have a bill of rights, on standard lines, incorporated in their Constitution (see para 59 above), it may be assumed that this will contain a provision enabling the victim or threatened victim of a breach of his fundamental rights and freedoms (including his freedom from racial discrimination) to apply to the Grand Court for relief and investing the Grand Court with full jurisdiction and powers to grant whatever relief is necessary to remedy the situation. Similarly, if it is also decided to enact legislation prohibiting racial discrimination by private persons or organizations on the lines recommended by the United Kingdom Government (see para 60 above), that, too, will contain provisions enabling the victim of such discrimination to obtain relief, including monetary compensation, by means of an action in the courts.

Article 7

69. As explained in the preceding paragraphs report, the harmonious and well-integrated mixture of persons of a wide variety of races, colours and racial or ethnic origins has produced a society in the Cayman Islands which would inherently be extremely resistant - indeed hostile - to any form of racial discrimination or prejudice and in which the benefits of inter-racial friendship and understanding are well understood and valued, not only by the Government but also by all sections of the community. It is well recognised that racial diversity is an important feature of today's social reality in the Cayman Islands and, particularly in the spheres of education and culture, it is accepted that the promotion and maintenance of inter-racial tolerance is critical to the social, and ultimately to the political and economic, stability of the territory. As noted above, the Cayman Islands are happily free from persons or organizations which disseminate racist views or promote racist activities.

70. Nevertheless, the Cayman Islands Government is not complacent about its duty, in conformity with article 7 of the Convention, to work actively to ensure the maintenance of this situation and to continue the policies which have been conducive to it. The educational system is such that children of different races, colours and nationalities attend the same schools, and the curricula content in both government schools and private schools emphasizes the need for

tolerance and friendship between peoples and nations. As reported in paragraph 62 above, the activities of multiracial non-governmental organizations such as the Scouts, the Rotary Club, the Lions and the Kiwanis are welcomed and encouraged. In addition, and as an important tool in nation-building, the Cayman Islands Government actively encourages and gives material assistance to a wide range of sporting activities in which persons of all races, colours and national or ethnic origin are involved. The participation of sportsmen and sportswomen from the Cayman Islands, with government encouragement, in various regional and international tournaments provides a further opportunity for the promotion and practice of harmonious mingling and tolerance between persons of different races and origins.

71. The texts of the various human rights instruments which apply to the Cayman Islands (including, of course, the Convention itself), as well as the text of the Charter of the United Nations, are available to all members of the public. No special measures or programmes have as yet been put in place to promote public awareness of these instruments and of their importance to the people of the Cayman Islands in the protection and advancement of their human rights, but the Cayman Islands Government is conscious of this deficiency and will consider how best to remedy it.

ANNEX E. FALKLAND ISLANDS

1. General

72. The Committee is referred to the core document ("the country profile") in respect of the Falkland Islands contained in annex V to HRI/CORE/1/Add.62. Save as is indicated in the following paragraphs of the present report, the position as regards the matters covered by that core document remains substantially as described in it. The Committee's attention is drawn especially to those parts of the core document which describe the democratic institutions of government in the Falkland Islands (Part II, section A), the legal system (Part II, section B), and the general legal framework within which human rights are protected (Part III). In particular, the Committee is referred to annex IV, paragraphs 43 to 46 of the core document which give an account of the contents and operation of chapter I of the Constitution of the Falkland Islands (entitled "Protection of Fundamental Rights and Freedoms of the Individual"). As is explained in those paragraphs, the provisions of chapter I guarantee and protect, in justiciable form, the principal substantive rights and freedoms set out in the International Covenant on Civil and Political Rights and also many of the rights and freedoms set out in the International Covenant on Economic, Social and Cultural Rights and enable the courts of the Falkland Islands to grant and enforce effective remedies for any contravention or threatened contravention of them. As is noted below, one of the freedoms so guaranteed and protected is freedom from racially discriminatory laws and from racially discriminatory treatment by public officers or public authorities.

73. At the most recent census (1996), the population of the Falkland Islands, excluding United Kingdom military personnel for the time being stationed there, amounted to 2,221 persons. Those who make up the resident population are predominantly of European extraction. However, the forebears of some of them came to the Falkland Islands from South America and it is believed that some of these forebears may themselves have had forebears who were Amerindians. It is known also that, in the past, a few persons emigrated from St. Helena to the Falkland Islands and intermarried with local residents there, so that some of the present population of the Falkland Islands may be partly of Indian (in the sense of coming from the Indian subcontinent) or African extraction. Moreover, there have been occasions in the past when seamen from shipwrecked vessels - but there are no records or reliable information as to their racial origins - settled in the Falkland Islands and married and had children there, and so their descendants, too, may be of mixed racial origin. But it can confidently be reported that the resident population of the Falkland Islands is now racially homogeneous.

74. It should be noted that, in addition to the resident population, the Falkland Islands enjoys the presence both of visiting foreign seamen and of overseas contract workers. As regards the former, it has been the practice for a number of years for foreign seamen employed on fishing boats operating in the South Atlantic to come ashore in Stanley in some numbers for recreational purposes. With the cooperation of the Falkland Islands Government, Korean and Japanese fishing associations have established premises in Stanley to assist their seamen when ashore. The Falkland Islands Government is contemplating providing other such facilities for them. (See also para 81 below.) As regards overseas contract workers, the situation of full employment in the Falkland Islands which has existed in recent years has resulted in a marked shortage of labour. This has been ameliorated by the temporary immigration of a number of persons

employed on short-term contracts. Some 134 such persons are at present so employed by private sector employers both in Stanley and in Camp, and some 400 are so employed in connection with the military presence at Mount Pleasant. The Falkland Islands Government itself currently employs, on contract, 84 persons from overseas. The policies operated by the Falkland Islands Government in respect of the immigration of contract workers (as in other contexts) are designed to avoid and prevent racial discrimination.

75. It may in particular be mentioned in this context that there are currently a number of St. Helenians employed in Stanley in the hospitality and retail industries. Some of them were recruited for that purpose directly from St. Helena, while others were originally employed at the Mount Pleasant military base but have since left that employment and taken up employment and residence in Stanley. The Falkland Islands Government has taken steps to make sure that these St. Helenians are not being exploited or discriminated against. In fact, the managers of the two largest hotel/restaurant facilities in Stanley are themselves St. Helenians. There is also a strong Chilean community in the Falkland Islands which, though not organized in a formal structure, from time to time holds Chilean "events" to which members of the wider public are invited. These communal activities, and similar ones by the St. Helenian community (which likewise is a strong community though not organized in a formal structure), are encouraged by the Falkland Islands Government both for their own sake and because they help to promote good race relations among the population at large.

2. Information relating to articles 2 to 7 of the Convention

76. The Government of the Falkland Islands, conscious of the requirements of the Convention, is committed to preventing racial discrimination arising in any form and has taken the necessary measures, including enacting the requisite legislation, for that purpose. These measures are described more fully below. They have been taken despite the fact that manifestations of racial discrimination are virtually unknown in the Falkland Islands: no complaint of racial discrimination has ever come to the attention of the authorities, either though invocation of the formal machinery for that purpose that exists under the relevant legislation or through any other channel.

77. The Falkland Islands in fact have a formidable range of legislative and other measures whose purpose is to prevent or eliminate racial discrimination. The principal legislative provision is, of course, section 12 of the Constitution of the Falkland Islands (guaranteeing the fundamental rights and freedoms of the individual) which prohibits all legislation that is discriminatory either of itself or in its effect and also any discriminatory treatment by any person acting under the authority of a law or by any public officer or public authority. The term "discriminatory" is defined so as to include racial discrimination within the meaning of the Convention. The prohibition imposed by section 12 is judicially enforceable: see paragraph 88 below.

78. Section 12 of the Constitution, as just explained, prohibits racial discrimination in the public sphere, i.e as embodied in, or as the effect of, a law, or as manifested by some exercise of public authority. It does not purport to deal with racial discrimination in the private sphere. But racial discrimination in the private sphere is now prohibited by the Race Relations Ordinance 1994, which, in effect, gives the provisions of the United Kingdom's Race Relations Act 1976

(as amended) the force of law in the Falkland Islands, subject only to various technical adaptations and modifications to make them fit local circumstances. The result is therefore that racial discrimination (again defined in terms which accord with the Convention) by private persons or bodies is unlawful if committed in any of a number of specified fields, including employment, education, the provision of goods, facilities or services, the disposal or management of premises, and membership of associations.

79. The provisions of Falkland Islands law which now deal with such expressions of racial intolerance as incitement to racial hatred and the commission of racially motivated crimes are described in paragraphs 84 and 85 below. But one other recent measure which should be mentioned here is the amendment, in September 1997, of the provision of the Constitution of the Falkland Islands that indirectly governs the acquisition, on marriage, of the right to enter and remain in the Falkland Islands. Under the Constitution, this right is enjoyed by all persons "belonging to the Falkland Islands". Previously, the status of "belonger" was automatically conferred on a woman who married a man who was a "belonger" (which he generally was because he had been born in the Falkland Islands or because one of his parents had been born there), but it was not so conferred on a man who married a woman "belonger". It had been suggested that the practical effect of this distinction between the two cases might entail an element of discrimination not only on grounds of sex but perhaps also on grounds of race. The constitutional amendment made in September 1997 therefore abolished the distinction by conferring the status of "belonger" (and thus the right to enter and remain in the Falkland Islands) also on men who married women "belongers".

80. As regards article 2.1 (e) of the Convention, the small size of the population of the Falkland Islands does not lend itself to the existence of many private, non-governmental bodies: the principal ones that function there are the Scouts, the Girl Guides, and the various Churches and other religious organizations. The Scouts and the Girl Guides, like their counterparts elsewhere, have clauses in their constitutions promoting multiculturalism and inter-racial friendship, and that is also a concern, of course, of the religious organizations. The Falkland Islands Government welcomes these bodies and encourages, and seeks to facilitate, their activities, especially those which foster international and inter-racial harmony and militate against racial prejudice. For example, in 1998 the Taxation Ordinance was amended to enable donations in excess of £50 to registered charities (which all these bodies are) to be claimed as tax deductions. Each organization which was likely to be eligible to benefit from this concession had its attention specially drawn to it. The Falkland Islands Government also gives advice and assistance to charities, such as those mentioned above, concerning their structure and management.

81. One particular charity (which in this case is not a religious organization) that is very active in promoting good race relations in the community, and that has benefited from assistance and encouragement provided by the Falkland Islands Government, is the Stanley Seamen's Centre, which provides shelter and assistance to seamen of all nationalities. The Falkland Islands Government helped the establishment of this Centre by assisting in the preparation of its constitution and by chairing meetings between the initial trustees, and senior government officials now participate in a body which is advisory to it. The Centre's activities (including fund-raising for its work) receive regular attention in the local media.

82. Also in the context of article 2.1 (e) of the Convention, the Committee's attention is again drawn to the activities, with the encouragement of the Falkland Islands Government, of the St. Helenian and Chilean communities, as reported in paragraph 75 above.

Article 3

83 Neither racial segregation nor any other apartheid-like practice exists in any form in the Falkland Islands and no such practice would be tolerated by the Falklanders if it were ever to be attempted. Nevertheless, as a matter of law, the Race Relations Ordinance 1994 (see para 78 above) has the effect of equating racial segregation with racial discrimination, and therefore of expressly making it unlawful, in the various fields to which that Ordinance applies.

Article 4

84. In December 1998 the Falkland Islands enacted legislation whose effect was to adopt, as part of the law of the Falkland Islands, the provisions of Part III of the Public Order Act 1986 of the United Kingdom. Accordingly, it is now a criminal offence in the Falkland Islands, in the same way as it is in the metropolitan territory of the United Kingdom, to use words or behaviour, or to publish, distribute or display written material, or to do other similar or related things, if the intention or likely consequence is incitement to racial hatred.

85. By virtue of various provisions of the Interpretation and General Clauses Ordinance 1977 of the Falkland Islands, as amended, those provisions of the United Kingdom's Crime and Disorder Act 1998 that deal with racially aggravated offences now also form part of the law of the Falkland Islands. Accordingly, certain existing offences (offences against the person, criminal damage, public order offences and harassment) now attract heavier sentences if they are "racially aggravated", that is to say, if they are racially motivated or if, when committing them, the offenders demonstrate racial hostility towards the victims.

86. For similar reasons to those that have been explained in relation to the United Kingdom's metropolitan territory, it has been and remains the judgement of the Government of the Falkland Islands that, in the circumstances which have hitherto obtained and still obtain in the Falkland Islands, it is neither necessary nor desirable, in order to attain the end indicated in the first part of article 4 of the Convention, to go further than is described above and to legislate so as to prohibit the dissemination of "racist" ideas and to proscribe "racist" organizations where there is no accompanying element of any threat to public order or of incitement to racial hatred. It may be added that, to the knowledge of the Falkland Islands Government, no such dissemination does in practice currently take place in the Falkland Islands and no such organizations currently exist there. If this situation were ever to change, the Falkland Islands Government would of course reconsider what measures might be required in the light of the United Kingdom's interpretation of article 4 of the Convention, as recorded when signing and ratifying the Convention.

Article 5

87. The right of all persons, without distinction as to race, colour, or national or ethnic origin, to equality before the law, in particular in their enjoyment of the various rights specified in article 5 of the Convention, is, as is explained in paragraphs 77 to 79 above, guaranteed in law by

the combined operation of chapter I of the Constitution of the Falkland Islands and the Race Relations Ordinance 1994, as supplemented by the other legislation referred to. It is enjoyed in practice. It may be added that the equality of all persons before the law, irrespective of their race or colour or origin (or, for that matter, their sex or religion or political opinion) is inherent in the ordinary legal order of the Falkland Islands and is both respected by the courts of the Falkland Islands and cherished by the people of the Falkland Islands.

Article 6

88. As is explained in the core document (see para 72 above), section 16 of the Constitution provides that a person who alleges that any of his fundamental rights and freedoms (including, specifically, his right not to be subjected to discriminatory laws or discriminatory treatment in the exercise of public authority) has been, is being, or is likely to be infringed may apply directly to the Supreme Court for redress (or may require an inferior court in which that issue has arisen to refer it to the Supreme Court) and the Supreme Court will then determine the issue and may make such declarations and orders, issue such writs and give such directions as it considers appropriate for securing the enforcement of the right in question.

89. Where unlawful racial discrimination is alleged to have occurred in the private sphere, the Race Relations Ordinance 1994 (which, as explained above, brings into play in the Falkland Islands the provisions of the Race Relations Act 1976 of the United Kingdom, as amended) gives the complainant the right to bring civil proceedings against the alleged perpetrator in the same way as he might bring ordinary proceedings in tort; and it is expressly provided that the damages which he may obtain in those proceedings may include compensation for injury to his feelings. There is also provision for the enforcement of various provisions of the Ordinance at the suit of the Attorney-General.

90. Notwithstanding the well-known existence of these remedies, no proceedings of any kind alleging racial discrimination have ever been instituted before the courts of the Falkland Islands nor has any complaint of racial discrimination ever been made to the authorities. This testifies to the absence of racial discrimination as a significant phenomenon, in practice, in the life of the population of the Falkland Islands.

Article 7

91. The role played by the Falkland Islands Government in encouraging and assisting organizations which themselves seek to combat racial prejudice and to promote international and inter-racial tolerance and friendship is referred to in paragraphs 80 to 82 above. More directly, the theme of the need to prevent all forms of racial discrimination and to foster good race relations was, of course, highlighted and given full publicity when the Race Relations Ordinance 1994 was being debated during its passage in the Legislative Council. The proceedings of the Council were broadcast, live, by the Falkland Islands Broadcasting Service and were also reported in the local newspaper, and the text of the Ordinance was published in the Official Gazette and is now available to all members of the public.

92. The issue of race relations does not at present feature explicitly in the curriculum of the Falkland Islands Community School. But a review is currently taking place and the inclusion of

that specific issue is among the topics being considered. The Falkland Islands Government will encourage such a step. (Meanwhile, it is to be noted, the "mission statement" of the Falkland Islands Community School already emphasizes that the school aims to be "a community school which values the worth and dignity of each member of the community" and to "promote and praise qualities of helpfulness, consideration, respect, tolerance and industry".) Even without the express mention of race relations in the official curriculum, materials and textbooks used in schools in the Falkland Islands - from early reading-books onwards - portray peoples of all races and cultures mixing together on the basis of equality, and all such texts are written so as specifically to encourage the elimination of all forms of racial prejudice.

93. In the wider field, the Falkland Islands Government is currently engaged in the process of preparing an "Island Plan", involving a review of the policies and "mission statements" of all government departments. It intends, in the course of this, to give consideration to ensuring that the "mission statement" of the Falkland Islands Broadcasting Service makes appropriate reference to the promotion of multiculturalism within the community.

ANNEX F. GIBRALTAR

1. General

94. The Committee is referred to the core document (the "country profile") in respect of Gibraltar which is contained in annex VI to HRI/CORE/1/Add.62. Save as is indicated in the following paragraphs of the present annex, the position as regards the matters covered by that core document remains substantially as there described. The most up-to-date estimate (as at the end of 1996) of the population of Gibraltar is 27,086.

2. Information relating to articles 2 to 7 of the Convention

Article 2

95. Because of its history and its unique physical circumstances, Gibraltar has developed a society in which diverse racial, ethnic and cultural groups have, over the years, been forged into a single people, today sharing a common identity. Neither in politics, commerce, employment, education, cultural life or social life - or indeed in any other respect - is Gibraltarian society organized on racial lines, nor are inter-personal relationships generally governed by reference to considerations of race, colour or national or ethnic origin.

96. Though racial discrimination within the meaning of the Convention is thus not a significant element in Gibraltarian life, Gibraltar law does contain a number of provisions whose purpose or effect is to prevent such discrimination or to render it unlawful. The most important of these is, of course, the provision in the Constitution of Gibraltar (section 14) which prohibits any law that is discriminatory, either of itself or in its effect, and also prohibits the discriminatory treatment of any person by anybody acting in the performance of any public function conferred by law or otherwise in the performance of the functions of any public office or public authority. Discrimination is defined, for these purposes, as the conferment of advantages, or the imposition of disadvantages, on persons by reason, wholly or mainly, of their race, caste, place of origin, political opinions, colour or creed.

97. Section 14 of the Constitution does not extend to actions in the private sphere: that is to say, it does not operate so as to strike down racially discriminatory conduct by private persons or organizations. The view that had previously been taken by the Gibraltar Government was that the absence, in practice, of any significant manifestation of racial discrimination in Gibraltar rendered it unnecessary to go to the length of enacting legislation specifically to make such discrimination unlawful. But the United Kingdom Government has drawn to the attention of the Gibraltar Government the views expressed by the Committee on the desirability of having appropriate legislation in place even in such circumstances, and has provided the Gibraltar Government with advice on the form which it might take (essentially on the lines of the United Kingdom's own Race Relations Act 1976, as amended). A draft of such legislation has in fact now been produced and the Gibraltar Government envisages that it will be put before the Gibraltar legislature and, if approved, enacted during the course of the current year (2000).

98. However, even in advance of such specific legislation, Gibraltar enjoys a number of other legal safeguards against racial discrimination. In particular, as a territory within the European

Union, it is of course subject to the various constraints, having that effect directly or indirectly, which are imposed by European law. It is also subject to the relevant provisions of the European Convention on Human Rights (including those affording the right of individual petition).

99. As regards positive measures to encourage multiracial organizations and other means of eliminating barriers between races, of the kind referred to in article 2.1 (e) of the Convention, there are a number of such organizations in Gibraltar, which are open to persons of all races, colours, national or ethnic origins and creeds and in which a wide range of such persons do in fact participate actively and prominently. Examples are the St. John's Ambulance Brigade, Action Aid, the British Red Cross, the European Movement, the Federation of Small Businesses, the Gibraltar Chamber of Commerce, the Gibraltar Girl Guides Association, the Save the Children Fund, Women's Aid, the Senior Citizens Club, the Bar Council, the Royal British Legion, the Gibraltar Heritage Trust, the Gibraltar Women's Association, the Gibraltar Boy Scouts Association, the Rotary Club of Gibraltar, the Lions Club of Gibraltar and a wide variety of sporting and leisure clubs and professional and business associations. The activities of these organizations are welcomed and encouraged by the Gibraltar Government as a contribution to the reinforcement of the sense of a common Gibraltarian identity referred to in paragraph 95 above. In some cases (for example, in the case of youth and cultural organizations and sporting societies), this encouragement by the Government takes the concrete form of financial assistance from public funds.

Article 3

100. Gibraltar does not experience, nor would the people of Gibraltar tolerate, any form of racial segregation, whether overt or by the indirect operation of economic or social factors. As the law currently stands, there is no express prohibition of racial segregation, but the legislation against racial discrimination in the private sphere, on the lines of the United Kingdom's Race Relations Act 1976, which it is envisaged that Gibraltar will enact this year (see paragraph 97 above) will, if that model is followed, contain a provision equating racial segregation with racial discrimination - and thereby making it unlawful - in the fields to which the legislation applies (e.g. employment, education, housing, the provision of services, and access to places of entertainment or public resort, etc).

Article 4

101. Any act of violence or incitement to violence is a criminal offence under Gibraltar law irrespective of whether the racial or ethnic (or similar) attributes of the victim form any part of the circumstances of the offence. But because of the absence, in practice, of any significant element of racial prejudice or racial tension in Gibraltar (as explained above), Gibraltar has been - and remains - happily free of activities involving the stirring-up of prejudice or hatred between racial or ethnic groups. For the same reason, cases where an ordinary criminal offence can be said to be motivated by racial ill-feeling are extremely rare. In these circumstances, the assessment has been that there are not sufficient practical grounds for legislating expressly to make incitement to racial hatred or racial discrimination a criminal offence or to make special provision for racially-motivated crimes. The Gibraltar Government is confident that there is no reason to expect any change in this situation, but it will of course keep it under scrutiny with a view to reassessing the need for express legislation in this field if circumstances should alter.

102. Similar considerations apply to measures to prohibit the dissemination of ideas of racial superiority, etc., and measures to proscribe racist organizations. It can confidently be reported that there are no persons or organizations in Gibraltar that engage in the public dissemination of such ideas; and no racist organizations function there. The Gibraltar Government, therefore, has not judged it necessary to consider enacting legislation against them. Again, and given the particular circumstances of Gibraltar as described above, the Gibraltar Government has no reason to expect any change in this situation. But it would, of course, view any such change with concern and, if there were any evidence that it was occurring, would certainly consider what measures might be appropriate to deal with it, having regard, inter alia, to the interpretation of article 4 of the Convention placed on record by the United Kingdom Government when it signed and ratified the Convention.

Article 5

103. The right of all persons in Gibraltar, without distinction as to race, colour, or national or ethnic origin, to equality before the law, and in particular to such equality as regards their enjoyment of the rights mentioned in paragraphs (a) to (f) of article 5 of the Convention, is effectively guaranteed by chapter I of the Constitution of Gibraltar (see the core document referred to in paragraph 94 above). Not only does chapter I expressly secure to every person in Gibraltar, without permitting any such distinction, the particular fundamental rights and freedoms of the individual that are covered by the separate provisions of that chapter - though it must be recognized that these do not cover all the rights referred to in article 5, particularly the economic, social and cultural rights - but, as has been explained above, section 14 of the Constitution additionally prohibits the making of any discriminatory law or the discriminatory treatment of any person by any public authority or person exercising public functions conferred by law, which of course includes any court or other authority or person empowered to enforce rights - including rights in the economic, social and cultural fields - or to assure or administer their enjoyment. (It may be added that the equality of all persons before the law, irrespective of any consideration of race, colour, creed, etc., is fundamental to the legal system in force in Gibraltar, and the provisions of the Constitution just cited which prevent discrimination in the enjoyment of legal rights are merely a formal, though important, restatement of that principle.) Section 14 of the Constitution does permit discrimination, by or under the direct authority of a law, as between persons who possess Gibraltarian status (under the law regulating such status) and persons who do not. But this is essentially a distinction between citizens and non-citizens, as contemplated by article 1.2 of the Convention: it is to be emphasized that racial distinctions play no part in determining entitlement to Gibraltarian status. Another permitted exception which may be of interest, though not directly relevant to racial discrimination, allows provision to be made to ensure that teachers in government-maintained schools that are attended wholly or mainly by pupils of a particular religious community or denomination are acceptable on "moral and religious grounds" to that religious community or denomination.

Article 6

104. As explained in the core document (see para. 94 above), the Constitution of Gibraltar provides an effective remedy for any contravention, or apprehended contravention, of its provisions guaranteeing the fundamental rights and freedom of the individual, including his right, under section 14, not to be subjected to racial discrimination. Section 15 of the

Constitution gives the victim, or threatened victim, of any unlawful discrimination the right (without prejudice to any other action that may be lawfully available to him) to apply to the Supreme Court for redress; and the Supreme Court then has jurisdiction, in hearing and determining the application, to "make such orders, issue such writs and give such directions as it may consider appropriate" for enforcing the applicant's rights.

105. It is envisaged that the proposed legislation dealing generally with racial discrimination by private persons or organizations (see para. 97 above) will contain a provision (as does the United Kingdom's Race Relations Act 1976 on which it is modelled) enabling the victim of such unlawful discrimination to seek a remedy, including monetary compensation, by action in the courts.

Article 7

106. Despite the fortunate absence, as a result of Gibraltar's historical and physical circumstances, of any significant manifestation of racial discrimination among its population and the absence, also, of any individuals or organizations publicly disseminating or advocating racist views or racial prejudices, the Government of Gibraltar is not complacent about the need to promote and help maintain attitudes and activities which discourage such prejudices and which positively encourage interracial understanding, tolerance and friendship. To this end, as reported in paragraph 99 above, it welcomes and encourages the various multiracial non-governmental bodies that are referred to in that paragraph. In the educational sphere, all schools, whether public or private, are open to pupils of all races and religious groups. The curriculum of the schools largely mirrors the National Curriculum in United Kingdom schools, including those elements which support multiculturalism and seek to discourage racial or religious prejudice. The texts of the various human rights instruments which apply to Gibraltar, including the Convention, are readily available to the public.

ANNEX G. MONTSERRAT

1. General

107. As background information in considering the following report in respect of Montserrat, the Committee is asked to bear in mind the continuing impact on the island of the successive and devastating eruptions of the Soufriere Volcano, first in 1995 and then in 1996 and again in 1997. One of the results of this disaster has been the reduction of the area of the island that is open to habitation from 103 square kilometres to only about 40 square kilometres. Another has been the reduction of its population by almost two thirds, i.e. from 10,402 persons just before the eruptions to about 4,000 persons by current estimates: the other former inhabitants have been driven to emigrate to neighbouring islands in the Caribbean or to the United Kingdom, the United States or Canada. The seat of government, formerly in Plymouth (the capital town), has had to be moved to the north of the island. In the aftermath of the final evacuation of Plymouth in April 1996, all government offices were relocated to such accommodation as was available - in almost all cases, private dwelling houses. A private dwelling house even had to be requisitioned for use as the island's prison. However, work began as soon as possible on the construction of temporary government headquarters at a site at Brades in the north of the island. This site is now occupied and all government departments are now able to function in reasonable proximity to each other. Besides these obvious, major disruptions of public and private life, the widespread damage caused by the eruptions has of course had a number of other consequences that have impinged in various respects on the way in which the Government of Montserrat has been able to ensure full respect for the human rights of the people of the island, as set out in the various applicable instruments. But it has been, and remains, the firm objective of both the United Kingdom Government and the Montserrat Government to ensure that those rights continue to be observed to the greatest extent possible, even in the exceptional conditions which currently obtain. In the case of the rights arising under the International Convention on the Elimination of All Forms of Racial Discrimination, it is believed that this objective has in fact been fully attained.

108. Despite the recent drastic reduction in the number of persons living in Montserrat, as described above, the demographic composition of the population remains substantially as previously reported. The people of Montserrat are predominantly of African origin, partly via immigration from other Caribbean islands, but with some early mixture of Irish and some more recent mixture of other European races. A small proportion of the population consists of recent settlers from the United States and the United Kingdom. Colour is not a factor that plays a significant, or even perceptible, part in people's attitudes; but, for whatever relevance the fact may have, the colouration of the vast majority of the population ranges from various shades of brown to black. The popu'ation is well integrated and it is not possible to categorize its various elements with any greater particularity. The prevailing, shared, culture is that of the Caribbean countries generally.

109. Subject to the foregoing and save as expressly indicated in the following paragraphs, the position as regards the matters discussed in the core document (the "country profile") in respect of Montserrat, which is contained in annex VIII to HRI/CORE/1/Add.62 remains substantially as described in that document. The Committee's attention is drawn especially to those parts of the core document which describe the democratic institutions of government in Montserrat

(Part II, section A), the legal system (Part II, section C) and the general legal framework within which human rights are protected (Part III). In particular, the Committee is referred to annex VIII, paragraphs 22 and 23 which summarize Part IV of the Constitution of Montserrat. As is there stated, Part IV contains a fully elaborated set of provisions for the protection of the fundamental rights and freedoms of the individual (including, specifically, freedom from racial discrimination) and for their enforcement through the courts of the territory. Despite the upheaval caused by the volcanic eruptions, these provisions guaranteeing fundamental human rights have at all times been scrupulously observed. Their effect, so far as is specifically relevant to the Convention, is described in more detail below.

2. Information relevant to articles 2 to 7 of the Convention

Article 2

110. As regards racial discrimination by law (directly or indirectly) or as the result of action by the Montserrat Government or other public authorities, the necessary provision to give effect to article 2 of the Convention is to be found in section 63 of the Constitution of Montserrat. Section 63 (1) expressly prohibits (and therefore invalidates) any law that is discriminatory either of itself or in its effect, and section 63 (2) prohibits the discriminatory treatment of any person by any other person acting by virtue of a law or in the performance of the functions of any public office or any public authority. "Discrimination" is defined in section 63 (3) in such a way as to include racial discrimination within the meaning of the Convention. The machinery for enforcing these prohibitions and for securing a remedy for any contravention of them is described below, in relation to article 6 of the Convention.

111. As regards racial discrimination by private persons or organizations, the Committee will recall that the view formerly taken by the Government of Montserrat was that, in the light of the integrated and harmonious attitude to race relations which in fact prevails in the island, there was no practical need for legislation on this topic. However, largely in response to the Committee's views as expressed in its consideration of earlier reports under the Convention, it has been decided that Montserrat should nevertheless have legislation on the lines of the United Kingdom's Race Relations Act 1976 (as amended); and, with the advice and assistance of the United Kingdom Government, a bill for that purpose has been prepared. It is currently before the Montserrat Legislature and it is hoped that it will be enacted in the near future. The position in respect of racial discrimination by private persons and organizations will then be substantially the same as it is in the United Kingdom itself.

112. The Montserrat Government takes seriously the need, in conformity with article 2.1 (e) of the Convention, to encourage multiracial organizations and other means of preventing or eliminating barriers between races and, generally, to maintain a climate of opinion in which racial division cannot take root. There are in fact several organizations, such as the Scouts, the Girl Guides, the Boys Brigade, the Rotary movement and the Soroptimists, which operate in Montserrat with an active membership drawn from all races. They are vigorous and successful, and they are welcomed and encouraged by the Montserrat Government.

Article 3

113. The people and Government of Montserrat enthusiastically welcomed the elimination of apartheid in South Africa and would vehemently deplore its existence anywhere in the world. No apartheid-like practice or any form of racial segregation occurs in Montserrat, nor would it ever be countenanced by the people of Montserrat. However, though this makes the operation of laws expressly prohibiting segregation largely academic, it should be noted that section 63 (7) of the Constitution of Montserrat does prohibit the discriminatory treatment of any person in respect of public access to shops, hotels, restaurants, eating houses, licensed premises, places of entertainment or places of resort, while the projected legislation prohibiting racial discrimination by private persons and organizations (see para. 111 above) contains a provision equating racial segregation with racial discrimination (and thus proscribing it) in the various fields to which that legislation will apply.

Article 4

114. It remains the position that, though any act of violence or incitement to violence, whether or not racially motivated, is an offence under the law of Montserrat, for which the offender is liable to prosecution and punishment, Montserrat has no legislation specifically prohibiting incitement to racial hatred if this falls short of a threat to public order. However, it also remains the position that incitement to racial hatred, incitement to racial discrimination and the dissemination of ideas of racial superiority are all phenomena which are wholly absent from Montserrat, as also is the existence of any organizations - or indeed any individuals - pursuing such activities or advocating such ideas. The Government of Montserrat has no reason to fear that this situation may change, but it is conscious of its responsibilities in this respect and is alert to the need, if such a change were thought likely to happen, to consider what measures should then be taken in conformity with the Convention.

Article 5

115. The right of all persons in Montserrat to equality before the law without distinction as to race, colour, or national or ethnic origin is guaranteed by the provisions of Part IV of the Constitution of Montserrat - in particular, section 57 ("provisions to secure protection of law") read together with section 63 (1) and (2) (prohibition of discrimination in the public sphere: see para. 110 above). Equality before the law without regard to any such distinction is in any event inherent in the legal order in force in Montserrat and would be vigorously upheld by the courts if it were ever to be questioned.

116. More specifically, the equal enjoyment by all persons of the particular individual civil and political rights mentioned in article 5 of the Convention is expressly assured by the various specific provisions of Part IV of the Constitution (which guarantee those rights to all persons), and the non-discriminatory enjoyment of the remaining (economic, social and cultural) rights is effectively protected by section 63 (1) and (2) (which, as explained above, prohibit any kind of discrimination deriving, directly or indirectly, from any law and any kind of discriminatory treatment afforded by the exercise of public authority and which would therefore prevent any discrimination in the public provision of services or facilities). To the extent that the foregoing legal protection might fail to cover discriminatory action by private persons or organizations in

the economic, social or cultural fields (e.g. in the fields of education or employment or housing), that gap - which, in Montserrat, is in fact only theoretical - will be closed in the near future by the enactment of the projected legislation referred to in paragraph 111 above. It has been noted in paragraph 113 above that Montserrat already has express provision, in section 63 (7) of its Constitution, guaranteeing the non-discriminatory enjoyment of the right referred to in article 5 (f) of the Convention (right of access to any place or service intended for use by the general public).

Article 6

117. Part IV of the Constitution of Montserrat, which contains the provisions, described in paragraph 110 above, prohibiting racial discrimination by law or by the exercise of public authority (and also the provision prohibiting such discrimination as regards access to public places or services) establishes its own specific machinery for ensuring effective redress for any contravention of those provisions. Under section 66 of the Constitution, any person who claims that he has been, is, or is likely to be the victim of a contravention of section 63 has the right, without prejudice to any other legal remedy that is available to him, to apply to the High Court for redress; and the High Court is then given jurisdiction to hear and determine the application for redress and to make such orders, issue such writs and give such directions as it may consider appropriate for securing the enforcement of the claimant's constitutional right to be protected from discrimination. The High Court will not exercise these powers if it is satisfied that the claimant has or had adequate means of redress under some other law.

118. As regards unlawful discrimination in the private sphere, the projected legislation referred to in paragraph 111 above also establishes its own machinery for ensuring that a victim of such discrimination can obtain effective redress. In addition to the enforcement action that may be taken in certain circumstances by the public authorities, such a victim is given the right to bring civil proceedings against the perpetrator in the same manner as any other claim in tort, and it is expressly provided that the damages which he may obtain in those proceedings may include compensation for injury to feelings.

Article 7

119. The public education system in Montserrat, which provides free education at all levels to all children without distinction, actively fosters multiracialism and an atmosphere and culture which discourage racial prejudice and racial discrimination. Children of all races, colours and creeds attend the same classes and are taught the same subjects. These objects include social studies and studies of other societies, in the course of which the concept of a tolerant, multiracial world is clearly promoted.

120. Montserrat's media, especially BBC and Cable TV programmes, seek to ensure that the public is well informed about international affairs and about events and situations in other parts of the world. This helps to promote general awareness of the problems that are caused by racial intolerance and of the part played in combating it by the United Nations and by the relevant international instruments, including the Convention.

ANNEX H. PITCAIRN

1. General

121. The Committee is referred to the core document (the "country profile") in respect of Pitcairn which is contained in annex IX to HRI/CORE/1/Add.62. Save as is indicated in the following paragraphs of the present annex, the position as regards the matters covered by that core document remains substantially as there described.

122. The current total population of Pitcairn (as at December 1998) is 66 (31 males and 35 females). All but a handful of these (the teacher, the nurse, the pastor - who are persons recruited from outside the island by the Pitcairn Government and employed on a temporary basis - and their respective families) are native Pitcairners, i.e. they are all descended from the original settlers - some of the mutineers from HMS Bounty and the Tahitian men and women who accompanied them - who arrived in Pitcairn in January 1790 and whose descendants have constituted the sole population of Pitcairn ever since. Thus, the population of Pitcairn, though of mixed racial origin, is now entirely homogeneous.

2. Information relevant to articles 2 to 7 of the Convention

123. Given the complete racial homogeneity of the very small population of Pitcairn and the effective absence of any visitors except the crew or passengers of passing ships, racial discrimination there is not a realistic possibility and, accordingly, no special measures have ever been thought necessary to prevent or combat it. Nevertheless, the formal safeguard does exist (as noted in the core document) that the Governor, as the legislature for Pitcairn, is required by the Royal Instructions, which form part of the Constitution of Pitcairn, to obtain the prior approval of the Secretary of State for Foreign and Commonwealth Affairs of the United Kingdom before enacting any laws which appear to him to be inconsistent with the United Kingdom's treaty obligations or which discriminate between different communities or religions. This would effectively prevent the enactment of a law which, even inadvertently, was incompatible with the International Convention on the Elimination of All Forms of Racial Discrimination.

124. A further - but, it must be recognized, equally formal - safeguard against racial discrimination is to be found in the fact that, under the Judicature Ordinance 1961 (Cap. 2 of the Revised Laws of Pitcairn) and subject to any written law making specific provision on a particular topic, the basic law of Pitcairn is the substance of the law for the time being in force in England (applied of course with the necessary adaptations to fit local circumstances). If the situation ever arose, a Pitcairn court might therefore feel able to apply the relevant provisions of United Kingdom legislation, such as the Race Relations Act 1976. But it must be repeated that this is purely theoretical: no such situation can realistically be envisaged. It should be added that the legal adviser to the Government of Pitcairn is currently carrying out a review of the laws of Pitcairn. It is hoped that this review will be completed in the near future.

ANNEX 1. ST. HELENA

1. General

125. The Committee is referred to the core document (the "country profile") in respect of St. Helena, which is contained in annex X to HRI/CORE/1/Add.62. Save as is indicated in the following paragraphs of the present annex, the position as regards the matters covered by that core document remains substantially as there described, but the following statistics should be substituted, as appropriate, for those set out in annex X, paragraph 2 in the core document.

Gross domestic product per capita	£2,356 (1994/95) estimated
Gross national product	£10,526,000 (1994/95) estimated
Rate of inflation	2.0 per cent (August 1998)
Rate of unemployment	18.4 per cent (October 1998)
Literacy rate	
Males	98 per cent (1998 census)
Females	98 per cent (1998 census)
Population	4,913 (1998 census)
Life expectancy	
Males	70.6 years (1989-1998 average)
Females	78.0 years (1989-1998 average)
Infant mortality rate	19.2 per 1,000 live births (five-year moving average, 1994-1998) - too few to provide separate steady and reliable rates for each sex.
Birth rate	12.4 per 1,000 population (five-year moving average, 1994-1998)
Death rate	
Males	8.9 per 1,000 population (five-year moving average, 1994-1998)
Females	8.0 per 1,000 population (five-year moving average, 1994-1998)

Percentage of St. Helenian resident population under 15 years of age	
Males	23.1 per cent (1998 census)
Females	19.6 per cent (1998 census)
Percentage of St. Helenian resident population over 65 years of age	
Males	8.7 per cent (1998 census)
Females	14.0 per cent (1998 census)
Percentage of St. Helenian resident population in rural and urban areas	
Rural	60 per cent(1998 census)
Urban (Jamestown and Half-Tree Hollow)	40 per cent (1998 census)
Religions	Church of England
Males	82.4 per cent
Females	81.9 per cent
	Jehovah's Witness
Males	5.0 per cent
Females	6.3 per cent
	Baptist
Males	2.5 per cent
Females	2.1 per cent

126. The demographic composition of the population of St. Helena is difficult to describe with any precision because of the wide variety of racial or ethnic origins involved and the thorough intermixture that has taken place over time. It can broadly be said that the present population is composed of the descendants, over very many generations, of (among others) settlers from the United Kingdom, employees of the East India Company, workers coming (in some cases as slaves) from various parts of Africa, workers coming from the Indian sub-continent, the East Indies or Madagascar, and Chinese workers (in many cases brought in as indentured labourers). As stated above, these various racial or ethnic strands are now inextricably and indistinguishably intertwined.

2. Information relating to articles 2 to 7 of the Convention

Article 2

127. Because the population of St. Helena (including its two dependencies, Tristan da Cunha and Ascension) both is very small and is racially well integrated, manifestations of racial discrimination are virtually unknown there. It may fairly be said that racial discrimination, wherever it occurs elsewhere in the world, is regarded with dismay and abhorrence by the people of St. Helena and it would not be tolerated in their own society. Nevertheless, St. Helena law does contain provision aimed expressly at the prevention of racial discrimination in any form. This is described in the following paragraphs.

128. So far as legislation is concerned, the Royal Instructions to the Governor (which accompany, and in effect form part of, St. Helena's Constitution) have for many years prohibited him, unless he has obtained prior authority from the Foreign and Commonwealth Secretary of the United Kingdom Government, from assenting to any bill passed by the Legislative Council (or from enacting any law for Tristan da Cunha or Ascension) which falls into, inter alia, either of the following two cases: first, where it appears to him to be inconsistent with any of the United Kingdom's treaty obligations (including, of course, those arising under the Convention); second, where it makes provision "whereby persons of any community or religion may be subjected or made liable to disabilities or restrictions to which persons of other communities or religions are not made liable or may be granted advantages which are not enjoyed by persons of other communities or religions".

129. More recently, and in response to the views expressed by the Committee and with the advice and assistance of the United Kingdom Government, St. Helena has enacted legislation whose principal purpose is to prohibit racial discrimination in the private sphere - that is to say, racial discrimination committed by private persons or organizations. This legislation, which is closely modelled on the United Kingdom's own Race Relations Act 1976 (as amended), consists, for St. Helena itself and for Ascension, of the Race Relations Ordinance 1997 and, for Tristan da Cunha, of the Race Relations (Tristan da Cunha) Ordinance 1996. (The two Ordinances are in substantially similar terms.)

130. Under these Ordinances, it is unlawful to discriminate against any person on racial grounds in any of a number of specified areas. This prohibition applies not only to private persons and organizations in the strict sense but also to the St. Helena Government and to statutory bodies and persons holding statutory offices. Discrimination on racial grounds is defined as meaning discrimination on grounds of colour, race, nationality, or ethnic or national origin. The specified areas are employment (including indirect employment through the use of contract workers); partnerships (including benefits incidental to partnership); trade unions, employers' organizations and trade or professional organizations (including benefits incidental to membership of any such body); the entitlement to be authorized or qualified to engage in a particular trade or profession; the entitlement to vocational training; the functioning of educational establishments; the provision of goods, facilities or services (as to the meaning of which, see paragraph 131 below); the disposal or management of premises (including assigning or sub-letting premises comprised in a tenancy); and membership (including benefits incidental to membership) of private organizations other than those already covered by the provision

relating to trade unions, etc. It is also unlawful to publish any advertisement which indicates, or could be understood as indicating, an intention to commit an act of racial discrimination, whether or not that act would itself be unlawful under the relevant Ordinance.

131. The goods, facilities or services which must be provided without racial discrimination are expressly defined as including (but not limited to) access to places of public resort; accommodation in hotels, boarding houses, etc.; financial facilities (e.g. banking, insurance, loans, etc.); educational facilities; facilities for entertainment, recreation or refreshment; transport or travel facilities; and the services of any profession or trade or of any local or other public authority.

132. In addition to providing a civil remedy to the victim of unlawful discrimination (see paragraph 140 below), the Ordinances make such discrimination a criminal offence, punishable by a fine of up to £500. They also render void any term of a contract which constitutes or provides for unlawful discrimination or which furthers the commission of such discrimination, and they prevent the parties to a contract from effectively agreeing to exclude or restrict the protection against unlawful discrimination which the Ordinances themselves provide.

133. With respect to article 2.1 (e) of the Convention, St. Helena has a number of non-governmental voluntary organizations and religious groups which are active in the promotion of a common community spirit and the encouragement of harmonious relations between different sections of society. Given the absence, in practice, of racial discrimination as a significant feature of life in St. Helena, none of these bodies focuses specifically on the elimination or prevention of such discrimination or on the promotion of good race relations as such but, within the framework of St. Helena's multiracial society, they all actively promote attitudes and a climate of opinion in which racial prejudice of any kind would find it hard to take root. None of them, of course, is any way racially exclusive or racially biased in its membership. The Government of St. Helena welcomes and encourages the work of these bodies in helping to build a harmonious and integrated society in St. Helena, and it actively supports some of them (e.g. the Boy Scouts, the Girl Guides, the Church Lads Brigade and the St. Helena Heritage Society) by small annual grants.

134. Also in connection with article 2.1 (e) of the Convention, it is to be noted that the St. Helena News Media Board, which has been set up under the St. Helena News Media Ordinance 1997 to assume responsibility for St. Helena's only newspaper (published once a week) and for radio broadcasting, now has a statutory responsibility for ensuring that nothing is published in the newspaper or is broadcast on the radio "which can reasonably be interpreted as discriminatory or likely to arouse prejudice, hatred or public unrest on a racial, gender or religious basis".

Article 3

135. No form of racial segregation or any comparable practice takes place in St. Helena. Nevertheless, the Race Relations Ordinance 1997 (see paragraphs 129-132 above) expressly provides that racial segregation is to be equated with racial discrimination and is therefore unlawful (and, indeed, is punishable as a criminal offence) in the areas to which that Ordinance applies.

Article 4

136. Any act of violence or incitement to violence is of course a criminal offence under the law of St. Helena and is severely punishable as such. However, St. Helena has no history, and no expectation, of any such acts being committed as a result, or as an expression, of racial hatred or racial prejudice nor of any activities which could be regarded as incitement, or giving encouragement, to such hatred or prejudice. Nevertheless, as a precautionary measure and as an expression of the general abhorrence which such activities would evoke, the occasion was taken, when the Race Relations Ordinance 1997 was enacted, of including in it a provision which amends the Summary Offences Ordinance 1975 so as to create the specific offence of incitement to racial hatred. This offence, which is declared to be punishable by imprisonment for up to six months or a fine of £400 or both, would be committed by any person who published threatening, abusive or insulting written matter or who used threatening, abusive or insulting words in a public place or at a public meeting if, in the circumstances of that case, that written matter or those words were likely to stir up hatred against any racial group in St. Helena.

Article 5

137. Although St. Helena does not have any provision in its Constitution, or elsewhere in its written law, expressly guaranteeing the equality of all persons before the law without distinction as to race, colour, or national or ethnic origin, such equality is inherent in, and fundamental to, the legal order in force in St. Helena: as explained in the core document (see paragraph 125 above), the law of St. Helena is basically the law of England, with the necessary adaptations to fit local circumstances. The law of St. Helena - and specifically the principle of the equality of all persons before the law - is applied and enforced by its system of totally independent courts from which appeals lie first to a separate Court of Appeal and then to the Judicial Committee of the Privy Council: again see the core document referred to in paragraph 125 above. It is to be noted that, for the better protection and enforcement of the legal rights of the inhabitants of St. Helena, provision has now been made, under the Legal Aid and Advice Ordinance 1997, for persons to obtain free legal advice and representation from the Public Solicitor (a new post which is funded partly by the St. Helena Government and partly by the United Kingdom Government). This is in addition to the previously existing facilities for legal assistance and legal representation that are described in the core document.

138. The various specific rights that are referred to in article 5 of the Convention - both the civil and political rights and the economic, social and cultural rights - are all enjoyed equally by all persons in St. Helena without any distinction on grounds of race, colour or national or ethnic origin. (The two International Covenants, which directly guarantee these rights and their equal enjoyment by all persons, are applicable to St. Helena, and the requisite reports are submitted to the respective monitoring committees under the Covenants.) However, it should be mentioned that, in the particular fields of immigration and employment, the law of St. Helena (specifically, the Immigration Control Ordinance 1998, which came into force in October 1999) does draw a distinction between persons who possess "St. Helenian status" and those who do not. That status is enjoyed automatically by persons who have the prescribed connection with St. Helena by birth or descent but it may be acquired by other persons if they satisfy the Immigration Control Board that they are of good character and that they comply with certain other conditions: these are principally that they intend to make their home in St. Helena (or are married to St. Helenians)

and have resided in St. Helena for a prescribed minimum period. Persons who have St. Helenian status have an unrestricted right to enter and remain in St. Helena, but others may do so only if they obtain an entry permit or a work permit (which may be accompanied by a dependant's pass) or a visitor's permit. There are no restrictions on St. Helenians' right to work, etc., but non-St. Helenians may not take up employment in St. Helena unless they have obtained a work permit. Nor (under a different piece of legislation) may they acquire an interest in land in St. Helena unless they obtain a licence from the Governor in Council. But these distinctions between persons who do and persons who do not have St. Helenian status are essentially distinctions between citizens and non-citizens of the kind provided for by article 1.2 of the Convention. The entitlement to St. Helenian status, and the rights which attach to it, in no way turn on, or take any account of, the race, colour or national or ethnic origin of the persons concerned.

139. As regards the equal enjoyment, free from any form of racial discrimination, of the right referred to in article 5 (f) of the Convention (access to places of public resort, etc.), attention is drawn to paragraph 131 above, which describes the express provision satisfying that requirement that is now contained in the Race Relations Ordinance 1997.

Article 6

140. As indicated in paragraph 132 above, any person who commits an act of unlawful racial discrimination, contrary to the Race Relations Ordinance 1997, is liable to prosecution for a criminal offence and to a fine of up to £500. But the Ordinance also provides a more direct remedy for the victim of unlawful discrimination. Any such person may bring civil proceedings, in the same manner as any other claim in tort, against the perpetrator of the discrimination; and the Ordinance expressly provides that the damages that he may obtain in such proceedings may include compensation for injury to feelings, whether or not they include compensation under any other head.

Article 7

141. The general topic of discrimination, including its causes and effects and the importance of recognizing the equality of all persons, regardless of race, religion, sex or culture, forms part of the curriculum of St. Helena's schools. Teaching of this topic is incorporated, for the First Schools (4 years - 8+ years), in moral stories, "circle time" sessions and school assemblies and, for Middle Schools (8+ years - 12+ years) and the Secondary School, in a Personal and Social Education Programme. In the Secondary School there are also Religious Education lessons, in which similar themes may be emphasized. Attention is also drawn to the contribution in this field made by the activities of the various non-governmental bodies referred to in paragraph 133 above.

142. It is hoped that the new arrangements relating to St. Helena's newspaper and radio broadcasts (see paragraph 134 above) will in future facilitate the provision of greater publicity for the various relevant human rights instruments applicable to St. Helena, not least the Convention. It is already the practice that the reports made in respect of St. Helena are sent to all government departments, are made available to all councillors and are placed in the public library where they are readily accessible to members of the public.

ANNEX J. TURKS AND CAICOS ISLANDS

1. General

143. The Committee is referred to the core document ("the country profile") in respect of the Turks and Caicos Islands ("the TCI") contained in annex XI to HRI/CORE/1/Add.62. Save as is indicated in the following paragraphs of the present report, the position as regards the matters covered by that core document remains substantially as described in it. The most up-to-date estimate of the current population of the TCI is about 24,000, though it is impossible to be precise because of the fluctuating population of immigrant workers. In this connection, it is to be noted that the TCI has for some years had to deal with the increasing problem of large-scale illegal immigration from Haiti (and, but to a much smaller extent, from the Dominican Republic). The number of Haitians in the TCI is now thought to be in the region of 8,000 persons, of whom between one third and one half of the total are believed to be illegal immigrants. Over the past three years, approximately 3,000 illegal immigrants from Haiti have been repatriated each year. This process is of course conducted strictly in accordance with the relevant international norms.

144. With reference to annex XI, paragraph 20 in the core document, and as previously reported, the Court of Appeal has now been localized and sits regularly (currently, twice a year) in the TCI instead of in the Bahamas.

2. Information relating to articles 2 to 7 of the Convention

Article 2

145. The core of the measures in force in the TCI to prevent and eliminate racial discrimination is, as previously reported, section 78 of the Constitution of the territory. Section 78 defines discrimination as, in effect, the unequal conferment of privileges or advantages or the unequal imposition of disabilities or restrictions on different persons by reference wholly or mainly to their race, place of origin, political opinions, colour or creed. Any law which discriminates in that way, either of itself or in its effect, is unlawful (and therefore invalid) and any discriminatory treatment of any person by anybody exercising a public function (that is to say, acting by virtue of any law or performing the functions of any public office or public authority) is also unlawful. There is an exception for the imposition of restrictions on the entry into the TCI, and the freedom of movement there, of "non-belongers" and also on their ability to take up employment, etc. But this is essentially a citizenship distinction of the kind envisaged by article 1.2 of the Convention and is not in any way related to the race or colour, etc., of the persons concerned. As previously reported, "non-belongers" (i.e. expatriates from a variety of other countries in the region and elsewhere - and even leaving illegal immigrants out of account) have for some time constituted a significant section of the TCI workforce.

146. Section 78 of the TCI Constitution also expressly prohibits discrimination as regards access to places of public resort, such as shops, hotels, restaurants and places of entertainment (see paragraph 149 below). In addition, section 41 (1) of the Education Ordinance makes it unlawful to refuse any person admission to any public school on account of (among other things) the race of that person or the race of his parent. But except in these two respects, TCI law does

not yet contain any general provision prohibiting racial discrimination in the private sphere, that is to say, by private persons or organizations who are not exercizing public functions. The view hitherto taken has been that, since racial discrimination in any form is a rare occurrence in TCI life, the practical need for such provision has not been demonstrated. However, in the light of the views expressed by the Committee on the desirability of having legislation of this kind in place even in those circumstances, the TCI Government has taken the decision to prepare legislation, essentially on the lines of the United Kingdom's Race Relations Act 1976, which will close this formal gap in the TCI armoury of anti-discrimination measures. It is hoped that this legislation can be enacted in the near future.

147. The provisions of section 78 of the TCI Constitution are judicially enforceable (see paragraph 153 below).

148. The TCI have a number of private (i.e. non-governmental organizations and bodies which function on a strictly multiracial basis and which help to break down any real or perceived racial barriers and to dispel racial prejudices. These organizations include the Scouts, the Girl Guides, the Kiwanis, the Soroptimists, the Rotary Club, the Red Cross, the National Trust, various island-based development committees, chambers of commerce and a newly-formed human rights group. Their activities are welcomed and encouraged by the TCI Government which from time to time assists by providing funding for specific projects.

Article 3

149. No form of racial segregation or other practice similar to apartheid exists in the TCI, and it would be deeply resented and strongly resisted if it were to be attempted. Nevertheless, the Constitution of the TCI does contain a formal prohibition of it, in that section 78 (7) expressly prohibits any person being treated in a discriminatory manner (see paragraph 145 above) "in respect of access to any of the following places to which the general public have access, namely, shops, hotels, restaurants, eating-houses, licensed premises, places of entertainment or places of resort". Moreover, when the general legislation prohibiting racial discrimination by private persons or organizations is introduced (see paragraph 146 above), it will, if it follows the precedent of the United Kingdom's Race Relations Act 1976, contain a provision equating racial segregation with racial discrimination (and thus rendering it unlawful) in the various fields to which that legislation applies (e.g. employment, education, housing, the provision of services and facilities, etc.).

Article 4

150. Any act of violence or incitement to such an act is, of course, a criminal offence under the law of the TCI, irrespective of whether the perpetrator might have been motivated by racial hostility or whether the offence might have been committed in circumstances evincing such hostility. But such "racially motivated" or "racially aggravated" crimes are virtually unknown in the TCI. There is also no evidence of any activity taking place in the TCI which could be said to constitute incitement to racial hatred or to racial discrimination. In these circumstances, the TCI Government has not hitherto judged it necessary to introduce legislation in order formally to prohibit such incitement or to make special provision for the punishment of "racially motivated" or "racially aggravated" crimes. However, in the light of the views expressed by the Committee

and of the existence of comparable legislation in the United Kingdom and elsewhere - though the circumstances are, of course, different - the TCI Government is now giving consideration to the possibility of introducing such legislation and to the form which it might take.

151. The TCI is also totally free from the active dissemination of racist propaganda (that is to say, the propagation or advocacy of doctrines of racial superiority or racial hatred) and from the presence or activities of organizations espousing such doctrines. Accordingly, and in conformity with the interpretation of article 4 of the Convention placed on record by the United Kingdom when it signed and ratified the Convention, the TCI Government does not at present feel justified in introducing legislation specifically to proscribe such propaganda or such organizations. However, it is conscious of the need to keep the circumstances under close scrutiny and is prepared to review the matter if the situation should materially change.

Article 5

152. All persons in the TCI enjoy full equality before the law (including, but not confined to, equality in the particular respects identified in paragraphs (a) to (f) of article 5 of the Convention) without any distinction as to race, colour or national or ethnic origin. This equality, free from any consideration of race, colour, etc., is in any event inherent in the legal order of the TCI and would be rigorously upheld - in the unlikely case that it was ever disputed - by the independent and impartial judiciary which the Constitution of the TCI establishes and guarantees. But it is also directly and formally assured by the provisions of Part VIII of the Constitution which, as well as separately guaranteeing to every person the various "fundamental rights and freedoms of the individual" (broadly speaking, the civil and political rights mentioned in article 5 of the Convention), categorically prohibit (specifically, through section 78: see paragraph 145 above) the discriminatory operation or application of any law or the discriminatory treatment of any person by any person or authority exercising a public function - including, of course, any court. Though compliance with article 5 of the Convention is thus already effected by these provisions of the Constitution, the position as regards many of the economic, social and cultural rights mentioned in article 5 (e) will be doubly guaranteed when the proposed legislation referred to in paragraph 146 above is enacted. This double guarantee already exists as regards article 5 (f) (access to places of public resort) (see paragraph 149 above).

Article 6

153. The Constitution of the TCI provides an effective legal remedy for anybody whose constitutional right not to be subjected to racial discrimination has been, is being or is likely to be contravened. Under section 81 of the Constitution, any such person may, without prejudice to any other action with respect to that matter that is lawfully available, apply to the Supreme Court for redress - and if the question of such a contravention arises in proceedings before any subordinate court, that court must refer that question to the Supreme Court for determination - and the Supreme Court is then empowered to hear and determine the application (or the question referred by the subordinate court) and to make such orders, issue such writs and give such directions as it considers appropriate for securing the enforcement of the contravened right. Additionally, when the proposed legislation to prohibit racial discrimination by private persons or organizations is enacted (see paragraph 146 above), it will, if it follows the United Kingdom

model (the Race Relations Act 1976) in this respect, entitle the victim of unlawful discrimination to seek redress in the ordinary courts (including financial compensation for injured feelings) from the perpetrator of the discrimination.

154. It should also be mentioned that, under the provisions of the Employment Ordinance protecting employees against unfair dismissal, the concept of "unfair dismissal" would almost certainly now be interpreted as including dismissal on racial grounds. Accordingly, an employee who alleged that he had been so treated could apply to the court for redress. If the complaint was held to be well founded, the court might, depending on the circumstances, order his reinstatement or re-engagement; but if no such order was made, the court would have to make an award of monetary compensation.

Article 7

155. In accordance with the Country Policy Plan for the TCI which has been agreed between the TCI Government and the United Kingdom Government, as previously reported, the TCI Government is committed to ensuring respect for human rights and to the conscientious fulfilment of the international obligations in that behalf that have been accepted in respect of the TCI. For this reason, as well as because of the intrinsic importance of what is involved, the TCI Government is very conscious of the need to raise public awareness of these matters and, generally, to promote inter-racial understanding and friendship and to encourage knowledge of, and support for, international action and cooperation in the field of human rights. To this end, the Executive Council has agreed a number of measures to ensure that the international human rights instruments which apply to the TCI are brought expressly to the attention of all members of the Legislative Council and that their texts are published in the Official Gazette. These texts are in any event readily available to the public.

156. As noted in paragraph 148 above, the TCI Government encourages those non-governmental bodies which, by reason of their multiracial composition and of the objectives and activities which they pursue, promote harmony, tolerance and cooperation between persons of different racial or ethnic groups and discourage racial prejudice.

157. While the subject of good race relations is not, as such, part of the schools curriculum, it is of course likely to feature as part of the "civics" item and in religious education. The broad subject of human rights is covered, at high school level, as part of "social studies" and in lessons on roots and cultural habits and patterns.

- - - - -